

As Passed by the Senate

129th General Assembly

Regular Session

2011-2012

Sub. H. B. No. 121

Representative Rosenberger

Cosponsors: Representatives Gonzales, O'Brien, Mecklenborg, Beck, Pillich, Johnson, Thompson, Bubp, Martin, Slaby, Fende, Fedor, Yuko, Adams, R., Amstutz, Anielski, Baker, Balderson, Barnes, Blair, Blessing, Boose, Brenner, Buchy, Budish, Burke, Butler, Carey, Carney, Celeste, Clyde, Coley, Combs, Damschroder, DeGeeter, Derickson, Dovilla, Driehaus, Duffey, Foley, Gardner, Garland, Gentile, Gerberry, Goodwin, Goyal, Grossman, Hackett, Hagan, C., Hall, Hayes, Heard, Henne, Hottinger, Huffman, Kozlowski, Landis, Letson, Luckie, Lundy, Maag, Mallory, McClain, McGregor, McKenney, Milkovich, Murray, Newbold, Okey, Patmon, Peterson, Phillips, Reece, Roegner, Ruhl, Schuring, Sears, Sprague, Stautberg, Stinziano, Sykes, Szollosi, Uecker, Wachtmann, Weddington, Williams, Winburn, Young

Speaker Batchelder

Senators Tavares, Turner, Daniels, LaRose, Bacon, Beagle, Brown, Cafaro, Coley, Faber, Grendell, Hite, Hughes, Jones, Kearney, Lehner, Manning, Niehaus, Obhof, Oelslager, Patton, Sawyer, Schaffer, Schiavoni, Seitz, Skindell, Smith, Stewart, Wagoner, Widener, Wilson

A B I L L

To amend sections 3109.04 and 3109.051 of the Revised Code regarding child custody and visitation rights of parents called to active military service and to declare an emergency. 1
2
3
4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3109.04 and 3109.051 of the Revised Code be amended to read as follows:

Sec. 3109.04. (A) In any divorce, legal separation, or annulment proceeding and in any proceeding pertaining to the allocation of parental rights and responsibilities for the care of a child, upon hearing the testimony of either or both parents and considering any mediation report filed pursuant to section 3109.052 of the Revised Code and in accordance with sections 3127.01 to 3127.53 of the Revised Code, the court shall allocate the parental rights and responsibilities for the care of the minor children of the marriage. Subject to division (D)(2) of this section, the court may allocate the parental rights and responsibilities for the care of the children in either of the following ways:

(1) If neither parent files a pleading or motion in accordance with division (G) of this section, if at least one parent files a pleading or motion under that division but no parent who filed a pleading or motion under that division also files a plan for shared parenting, or if at least one parent files both a pleading or motion and a shared parenting plan under that division but no plan for shared parenting is in the best interest of the children, the court, in a manner consistent with the best interest of the children, shall allocate the parental rights and responsibilities for the care of the children primarily to one of the parents, designate that parent as the residential parent and the legal custodian of the child, and divide between the parents the other rights and responsibilities for the care of the children, including, but not limited to, the responsibility to provide support for the children and the right of the parent who is not the residential parent to have continuing contact with the children.

(2) If at least one parent files a pleading or motion in accordance with division (G) of this section and a plan for shared parenting pursuant to that division and if a plan for shared parenting is in the best interest of the children and is approved by the court in accordance with division (D)(1) of this section, the court may allocate the parental rights and responsibilities for the care of the children to both parents and issue a shared parenting order requiring the parents to share all or some of the aspects of the physical and legal care of the children in accordance with the approved plan for shared parenting. If the court issues a shared parenting order under this division and it is necessary for the purpose of receiving public assistance, the court shall designate which one of the parents' residences is to serve as the child's home. The child support obligations of the parents under a shared parenting order issued under this division shall be determined in accordance with Chapters 3119., 3121., 3123., and 3125. of the Revised Code.

(B)(1) When making the allocation of the parental rights and responsibilities for the care of the children under this section in an original proceeding or in any proceeding for modification of a prior order of the court making the allocation, the court shall take into account that which would be in the best interest of the children. In determining the child's best interest for purposes of making its allocation of the parental rights and responsibilities for the care of the child and for purposes of resolving any issues related to the making of that allocation, the court, in its discretion, may and, upon the request of either party, shall interview in chambers any or all of the involved children regarding their wishes and concerns with respect to the allocation.

(2) If the court interviews any child pursuant to division (B)(1) of this section, all of the following apply:

(a) The court, in its discretion, may and, upon the motion of 68
either parent, shall appoint a guardian ad litem for the child. 69

(b) The court first shall determine the reasoning ability of 70
the child. If the court determines that the child does not have 71
sufficient reasoning ability to express the child's wishes and 72
concern with respect to the allocation of parental rights and 73
responsibilities for the care of the child, it shall not determine 74
the child's wishes and concerns with respect to the allocation. If 75
the court determines that the child has sufficient reasoning 76
ability to express the child's wishes or concerns with respect to 77
the allocation, it then shall determine whether, because of 78
special circumstances, it would not be in the best interest of the 79
child to determine the child's wishes and concerns with respect to 80
the allocation. If the court determines that, because of special 81
circumstances, it would not be in the best interest of the child 82
to determine the child's wishes and concerns with respect to the 83
allocation, it shall not determine the child's wishes and concerns 84
with respect to the allocation and shall enter its written 85
findings of fact and opinion in the journal. If the court 86
determines that it would be in the best interests of the child to 87
determine the child's wishes and concerns with respect to the 88
allocation, it shall proceed to make that determination. 89

(c) The interview shall be conducted in chambers, and no 90
person other than the child, the child's attorney, the judge, any 91
necessary court personnel, and, in the judge's discretion, the 92
attorney of each parent shall be permitted to be present in the 93
chambers during the interview. 94

(3) No person shall obtain or attempt to obtain from a child 95
a written or recorded statement or affidavit setting forth the 96
child's wishes and concerns regarding the allocation of parental 97
rights and responsibilities concerning the child. No court, in 98
determining the child's best interest for purposes of making its 99

allocation of the parental rights and responsibilities for the 100
care of the child or for purposes of resolving any issues related 101
to the making of that allocation, shall accept or consider a 102
written or recorded statement or affidavit that purports to set 103
forth the child's wishes and concerns regarding those matters. 104

(C) Prior to trial, the court may cause an investigation to 105
be made as to the character, family relations, past conduct, 106
earning ability, and financial worth of each parent and may order 107
the parents and their minor children to submit to medical, 108
psychological, and psychiatric examinations. The report of the 109
investigation and examinations shall be made available to either 110
parent or the parent's counsel of record not less than five days 111
before trial, upon written request. The report shall be signed by 112
the investigator, and the investigator shall be subject to 113
cross-examination by either parent concerning the contents of the 114
report. The court may tax as costs all or any part of the expenses 115
for each investigation. 116

If the court determines that either parent previously has 117
been convicted of or pleaded guilty to any criminal offense 118
involving any act that resulted in a child being a neglected 119
child, that either parent previously has been determined to be the 120
perpetrator of the neglectful act that is the basis of an 121
adjudication that a child is a neglected child, or that there is 122
reason to believe that either parent has acted in a manner 123
resulting in a child being a neglected child, the court shall 124
consider that fact against naming that parent the residential 125
parent and against granting a shared parenting decree. When the 126
court allocates parental rights and responsibilities for the care 127
of children or determines whether to grant shared parenting in any 128
proceeding, it shall consider whether either parent or any member 129
of the household of either parent has been convicted of or pleaded 130
guilty to a violation of section 2919.25 of the Revised Code or a 131

sexually oriented offense involving a victim who at the time of 132
the commission of the offense was a member of the family or 133
household that is the subject of the proceeding, has been 134
convicted of or pleaded guilty to any sexually oriented offense or 135
other offense involving a victim who at the time of the commission 136
of the offense was a member of the family or household that is the 137
subject of the proceeding and caused physical harm to the victim 138
in the commission of the offense, or has been determined to be the 139
perpetrator of the abusive act that is the basis of an 140
adjudication that a child is an abused child. If the court 141
determines that either parent has been convicted of or pleaded 142
guilty to a violation of section 2919.25 of the Revised Code or a 143
sexually oriented offense involving a victim who at the time of 144
the commission of the offense was a member of the family or 145
household that is the subject of the proceeding, has been 146
convicted of or pleaded guilty to any sexually oriented offense or 147
other offense involving a victim who at the time of the commission 148
of the offense was a member of the family or household that is the 149
subject of the proceeding and caused physical harm to the victim 150
in the commission of the offense, or has been determined to be the 151
perpetrator of the abusive act that is the basis of an 152
adjudication that a child is an abused child, it may designate 153
that parent as the residential parent and may issue a shared 154
parenting decree or order only if it determines that it is in the 155
best interest of the child to name that parent the residential 156
parent or to issue a shared parenting decree or order and it makes 157
specific written findings of fact to support its determination. 158

(D)(1)(a) Upon the filing of a pleading or motion by either 159
parent or both parents, in accordance with division (G) of this 160
section, requesting shared parenting and the filing of a shared 161
parenting plan in accordance with that division, the court shall 162
comply with division (D)(1)(a)(i), (ii), or (iii) of this section, 163
whichever is applicable: 164

(i) If both parents jointly make the request in their pleadings or jointly file the motion and also jointly file the plan, the court shall review the parents' plan to determine if it is in the best interest of the children. If the court determines that the plan is in the best interest of the children, the court shall approve it. If the court determines that the plan or any part of the plan is not in the best interest of the children, the court shall require the parents to make appropriate changes to the plan to meet the court's objections to it. If changes to the plan are made to meet the court's objections, and if the new plan is in the best interest of the children, the court shall approve the plan. If changes to the plan are not made to meet the court's objections, or if the parents attempt to make changes to the plan to meet the court's objections, but the court determines that the new plan or any part of the new plan still is not in the best interest of the children, the court may reject the portion of the parents' pleadings or deny their motion requesting shared parenting of the children and proceed as if the request in the pleadings or the motion had not been made. The court shall not approve a plan under this division unless it determines that the plan is in the best interest of the children.

(ii) If each parent makes a request in the parent's pleadings or files a motion and each also files a separate plan, the court shall review each plan filed to determine if either is in the best interest of the children. If the court determines that one of the filed plans is in the best interest of the children, the court may approve the plan. If the court determines that neither filed plan is in the best interest of the children, the court may order each parent to submit appropriate changes to the parent's plan or both of the filed plans to meet the court's objections, or may select one of the filed plans and order each parent to submit appropriate changes to the selected plan to meet the court's objections. If changes to the plan or plans are submitted to meet the court's

objections, and if any of the filed plans with the changes is in 198
the best interest of the children, the court may approve the plan 199
with the changes. If changes to the plan or plans are not 200
submitted to meet the court's objections, or if the parents submit 201
changes to the plan or plans to meet the court's objections but 202
the court determines that none of the filed plans with the 203
submitted changes is in the best interest of the children, the 204
court may reject the portion of the parents' pleadings or deny 205
their motions requesting shared parenting of the children and 206
proceed as if the requests in the pleadings or the motions had not 207
been made. If the court approves a plan under this division, 208
either as originally filed or with submitted changes, or if the 209
court rejects the portion of the parents' pleadings or denies 210
their motions requesting shared parenting under this division and 211
proceeds as if the requests in the pleadings or the motions had 212
not been made, the court shall enter in the record of the case 213
findings of fact and conclusions of law as to the reasons for the 214
approval or the rejection or denial. Division (D)(1)(b) of this 215
section applies in relation to the approval or disapproval of a 216
plan under this division. 217

(iii) If each parent makes a request in the parent's 218
pleadings or files a motion but only one parent files a plan, or 219
if only one parent makes a request in the parent's pleadings or 220
files a motion and also files a plan, the court in the best 221
interest of the children may order the other parent to file a plan 222
for shared parenting in accordance with division (G) of this 223
section. The court shall review each plan filed to determine if 224
any plan is in the best interest of the children. If the court 225
determines that one of the filed plans is in the best interest of 226
the children, the court may approve the plan. If the court 227
determines that no filed plan is in the best interest of the 228
children, the court may order each parent to submit appropriate 229
changes to the parent's plan or both of the filed plans to meet 230

the court's objections or may select one filed plan and order each 231
parent to submit appropriate changes to the selected plan to meet 232
the court's objections. If changes to the plan or plans are 233
submitted to meet the court's objections, and if any of the filed 234
plans with the changes is in the best interest of the children, 235
the court may approve the plan with the changes. If changes to the 236
plan or plans are not submitted to meet the court's objections, or 237
if the parents submit changes to the plan or plans to meet the 238
court's objections but the court determines that none of the filed 239
plans with the submitted changes is in the best interest of the 240
children, the court may reject the portion of the parents' 241
pleadings or deny the parents' motion or reject the portion of the 242
parents' pleadings or deny their motions requesting shared 243
parenting of the children and proceed as if the request or 244
requests or the motion or motions had not been made. If the court 245
approves a plan under this division, either as originally filed or 246
with submitted changes, or if the court rejects the portion of the 247
pleadings or denies the motion or motions requesting shared 248
parenting under this division and proceeds as if the request or 249
requests or the motion or motions had not been made, the court 250
shall enter in the record of the case findings of fact and 251
conclusions of law as to the reasons for the approval or the 252
rejection or denial. Division (D)(1)(b) of this section applies in 253
relation to the approval or disapproval of a plan under this 254
division. 255

(b) The approval of a plan under division (D)(1)(a)(ii) or 256
(iii) of this section is discretionary with the court. The court 257
shall not approve more than one plan under either division and 258
shall not approve a plan under either division unless it 259
determines that the plan is in the best interest of the children. 260
If the court, under either division, does not determine that any 261
filed plan or any filed plan with submitted changes is in the best 262
interest of the children, the court shall not approve any plan. 263

(c) Whenever possible, the court shall require that a shared parenting plan approved under division (D)(1)(a)(i), (ii), or (iii) of this section ensure the opportunity for both parents to have frequent and continuing contact with the child, unless frequent and continuing contact with any parent would not be in the best interest of the child.

(d) If a court approves a shared parenting plan under division (D)(1)(a)(i), (ii), or (iii) of this section, the approved plan shall be incorporated into a final shared parenting decree granting the parents the shared parenting of the children. Any final shared parenting decree shall be issued at the same time as and shall be appended to the final decree of dissolution, divorce, annulment, or legal separation arising out of the action out of which the question of the allocation of parental rights and responsibilities for the care of the children arose.

No provisional shared parenting decree shall be issued in relation to any shared parenting plan approved under division (D)(1)(a)(i), (ii), or (iii) of this section. A final shared parenting decree issued under this division has immediate effect as a final decree on the date of its issuance, subject to modification or termination as authorized by this section.

(2) If the court finds, with respect to any child under eighteen years of age, that it is in the best interest of the child for neither parent to be designated the residential parent and legal custodian of the child, it may commit the child to a relative of the child or certify a copy of its findings, together with as much of the record and the further information, in narrative form or otherwise, that it considers necessary or as the juvenile court requests, to the juvenile court for further proceedings, and, upon the certification, the juvenile court has exclusive jurisdiction.

(E)(1)(a) The court shall not modify a prior decree

allocating parental rights and responsibilities for the care of 296
children unless it finds, based on facts that have arisen since 297
the prior decree or that were unknown to the court at the time of 298
the prior decree, that a change has occurred in the circumstances 299
of the child, the child's residential parent, or either of the 300
parents subject to a shared parenting decree, and that the 301
modification is necessary to serve the best interest of the child. 302
In applying these standards, the court shall retain the 303
residential parent designated by the prior decree or the prior 304
shared parenting decree, unless a modification is in the best 305
interest of the child and one of the following applies: 306

(i) The residential parent agrees to a change in the 307
residential parent or both parents under a shared parenting decree 308
agree to a change in the designation of residential parent. 309

(ii) The child, with the consent of the residential parent or 310
of both parents under a shared parenting decree, has been 311
integrated into the family of the person seeking to become the 312
residential parent. 313

(iii) The harm likely to be caused by a change of environment 314
is outweighed by the advantages of the change of environment to 315
the child. 316

(b) One or both of the parents under a prior decree 317
allocating parental rights and responsibilities for the care of 318
children that is not a shared parenting decree may file a motion 319
requesting that the prior decree be modified to give both parents 320
shared rights and responsibilities for the care of the children. 321
The motion shall include both a request for modification of the 322
prior decree and a request for a shared parenting order that 323
complies with division (G) of this section. Upon the filing of the 324
motion, if the court determines that a modification of the prior 325
decree is authorized under division (E)(1)(a) of this section, the 326
court may modify the prior decree to grant a shared parenting 327

order, provided that the court shall not modify the prior decree 328
to grant a shared parenting order unless the court complies with 329
divisions (A) and (D)(1) of this section and, in accordance with 330
those divisions, approves the submitted shared parenting plan and 331
determines that shared parenting would be in the best interest of 332
the children. 333

(2) In addition to a modification authorized under division 334
(E)(1) of this section: 335

(a) Both parents under a shared parenting decree jointly may 336
modify the terms of the plan for shared parenting approved by the 337
court and incorporated by it into the shared parenting decree. 338
Modifications under this division may be made at any time. The 339
modifications to the plan shall be filed jointly by both parents 340
with the court, and the court shall include them in the plan, 341
unless they are not in the best interest of the children. If the 342
modifications are not in the best interests of the children, the 343
court, in its discretion, may reject the modifications or make 344
modifications to the proposed modifications or the plan that are 345
in the best interest of the children. Modifications jointly 346
submitted by both parents under a shared parenting decree shall be 347
effective, either as originally filed or as modified by the court, 348
upon their inclusion by the court in the plan. Modifications to 349
the plan made by the court shall be effective upon their inclusion 350
by the court in the plan. 351

(b) The court may modify the terms of the plan for shared 352
parenting approved by the court and incorporated by it into the 353
shared parenting decree upon its own motion at any time if the 354
court determines that the modifications are in the best interest 355
of the children or upon the request of one or both of the parents 356
under the decree. Modifications under this division may be made at 357
any time. The court shall not make any modification to the plan 358
under this division, unless the modification is in the best 359

interest of the children. 360

(c) The court may terminate a prior final shared parenting 361
decree that includes a shared parenting plan approved under 362
division (D)(1)(a)(i) of this section upon the request of one or 363
both of the parents or whenever it determines that shared 364
parenting is not in the best interest of the children. The court 365
may terminate a prior final shared parenting decree that includes 366
a shared parenting plan approved under division (D)(1)(a)(ii) or 367
(iii) of this section if it determines, upon its own motion or 368
upon the request of one or both parents, that shared parenting is 369
not in the best interest of the children. If modification of the 370
terms of the plan for shared parenting approved by the court and 371
incorporated by it into the final shared parenting decree is 372
attempted under division (E)(2)(a) of this section and the court 373
rejects the modifications, it may terminate the final shared 374
parenting decree if it determines that shared parenting is not in 375
the best interest of the children. 376

(d) Upon the termination of a prior final shared parenting 377
decree under division (E)(2)(c) of this section, the court shall 378
proceed and issue a modified decree for the allocation of parental 379
rights and responsibilities for the care of the children under the 380
standards applicable under divisions (A), (B), and (C) of this 381
section as if no decree for shared parenting had been granted and 382
as if no request for shared parenting ever had been made. 383

(F)(1) In determining the best interest of a child pursuant 384
to this section, whether on an original decree allocating parental 385
rights and responsibilities for the care of children or a 386
modification of a decree allocating those rights and 387
responsibilities, the court shall consider all relevant factors, 388
including, but not limited to: 389

(a) The wishes of the child's parents regarding the child's 390
care; 391

(b) If the court has interviewed the child in chambers	392
pursuant to division (B) of this section regarding the child's	393
wishes and concerns as to the allocation of parental rights and	394
responsibilities concerning the child, the wishes and concerns of	395
the child, as expressed to the court;	396
(c) The child's interaction and interrelationship with the	397
child's parents, siblings, and any other person who may	398
significantly affect the child's best interest;	399
(d) The child's adjustment to the child's home, school, and	400
community;	401
(e) The mental and physical health of all persons involved in	402
the situation;	403
(f) The parent more likely to honor and facilitate	404
court-approved parenting time rights or visitation and	405
companionship rights;	406
(g) Whether either parent has failed to make all child	407
support payments, including all arrearages, that are required of	408
that parent pursuant to a child support order under which that	409
parent is an obligor;	410
(h) Whether either parent or any member of the household of	411
either parent previously has been convicted of or pleaded guilty	412
to any criminal offense involving any act that resulted in a child	413
being an abused child or a neglected child; whether either parent,	414
in a case in which a child has been adjudicated an abused child or	415
a neglected child, previously has been determined to be the	416
perpetrator of the abusive or neglectful act that is the basis of	417
an adjudication; whether either parent or any member of the	418
household of either parent previously has been convicted of or	419
pleaded guilty to a violation of section 2919.25 of the Revised	420
Code or a sexually oriented offense involving a victim who at the	421
time of the commission of the offense was a member of the family	422

or household that is the subject of the current proceeding; 423
whether either parent or any member of the household of either 424
parent previously has been convicted of or pleaded guilty to any 425
offense involving a victim who at the time of the commission of 426
the offense was a member of the family or household that is the 427
subject of the current proceeding and caused physical harm to the 428
victim in the commission of the offense; and whether there is 429
reason to believe that either parent has acted in a manner 430
resulting in a child being an abused child or a neglected child; 431

(i) Whether the residential parent or one of the parents 432
subject to a shared parenting decree has continuously and 433
willfully denied the other parent's right to parenting time in 434
accordance with an order of the court; 435

(j) Whether either parent has established a residence, or is 436
planning to establish a residence, outside this state. 437

(2) In determining whether shared parenting is in the best 438
interest of the children, the court shall consider all relevant 439
factors, including, but not limited to, the factors enumerated in 440
division (F)(1) of this section, the factors enumerated in section 441
3119.23 of the Revised Code, and all of the following factors: 442

(a) The ability of the parents to cooperate and make 443
decisions jointly, with respect to the children; 444

(b) The ability of each parent to encourage the sharing of 445
love, affection, and contact between the child and the other 446
parent; 447

(c) Any history of, or potential for, child abuse, spouse 448
abuse, other domestic violence, or parental kidnapping by either 449
parent; 450

(d) The geographic proximity of the parents to each other, as 451
the proximity relates to the practical considerations of shared 452
parenting; 453

(e) The recommendation of the guardian ad litem of the child, 454
if the child has a guardian ad litem. 455

(3) When allocating parental rights and responsibilities for 456
the care of children, the court shall not give preference to a 457
parent because of that parent's financial status or condition. 458

(G) Either parent or both parents of any children may file a 459
pleading or motion with the court requesting the court to grant 460
both parents shared parental rights and responsibilities for the 461
care of the children in a proceeding held pursuant to division (A) 462
of this section. If a pleading or motion requesting shared 463
parenting is filed, the parent or parents filing the pleading or 464
motion also shall file with the court a plan for the exercise of 465
shared parenting by both parents. If each parent files a pleading 466
or motion requesting shared parenting but only one parent files a 467
plan or if only one parent files a pleading or motion requesting 468
shared parenting and also files a plan, the other parent as 469
ordered by the court shall file with the court a plan for the 470
exercise of shared parenting by both parents. The plan for shared 471
parenting shall be filed with the petition for dissolution of 472
marriage, if the question of parental rights and responsibilities 473
for the care of the children arises out of an action for 474
dissolution of marriage, or, in other cases, at a time at least 475
thirty days prior to the hearing on the issue of the parental 476
rights and responsibilities for the care of the children. A plan 477
for shared parenting shall include provisions covering all factors 478
that are relevant to the care of the children, including, but not 479
limited to, provisions covering factors such as physical living 480
arrangements, child support obligations, provision for the 481
children's medical and dental care, school placement, and the 482
parent with which the children will be physically located during 483
legal holidays, school holidays, and other days of special 484
importance. 485

(H) If an appeal is taken from a decision of a court that grants or modifies a decree allocating parental rights and responsibilities for the care of children, the court of appeals shall give the case calendar priority and handle it expeditiously.

(I)(1) Upon receipt of an order ~~to~~ for active military service in the uniformed services, a parent who is subject to an order allocating parental rights and responsibilities or in relation to whom an action to allocate parental rights and responsibilities is pending and who is ordered ~~to~~ for active military service shall notify the other parent who is subject to the order or in relation to whom the case is pending of the order ~~to~~ for active military service within three days of receiving the military service order. ~~Either~~

(2) On receipt of the notice described in division (I)(1) of this section, either parent may apply to the court for a hearing to expedite an allocation or modification proceeding so that the court can issue an order before the parent's active military service begins. The application shall include the date on which the active military service begins.

The court shall schedule a hearing upon receipt of the application and hold the hearing not later than thirty days after receipt of the application, except that the court shall give the case calendar priority and handle the case expeditiously if exigent circumstances exist in the case.

The court shall not modify a prior decree allocating parental rights and responsibilities unless the court determines that there has been a change in circumstances of the child, the child's residential parent, or either of the parents subject to a shared parenting decree, and that modification is necessary to serve the best interest of the child. The court ~~may consider~~ shall not find past, present, or possible future active military service in the uniformed services ~~in determining whether~~ to constitute a change

in circumstances exists ~~under this section and shall~~ justifying 518
modification of a prior decree pursuant to division (E) of this 519
section. The court shall make specific written findings of fact to 520
support any modification under this division. 521

~~Upon application by either parent, the court may modify a~~ 522
~~prior decree allocating parental rights and responsibilities after~~ 523
~~the parent's active military service has been terminated, hearing~~ 524
~~testimony and making specific written findings of fact to support~~ 525
~~the modification.~~ 526

(3) Nothing in this division (I) of this section shall 527
prevent a court from issuing a temporary order allocating or 528
modifying parental rights and responsibilities for the duration of 529
the parent's active military service. A temporary order shall 530
specify whether the parent's active military service is the basis 531
of the order and shall provide for termination of the temporary 532
order and resumption of the prior order within ten days after 533
receipt of notice pursuant to division (I)(5) of this section, 534
unless the other parent demonstrates that resumption of the prior 535
order is not in the child's best interest. 536

(4) At the request of a parent who is ordered for active 537
military service in the uniformed services and who is a subject of 538
a proceeding pertaining to a temporary order for the allocation or 539
modification of parental rights and responsibilities, the court 540
shall permit the parent to participate in the proceeding and 541
present evidence by electronic means, including communication by 542
telephone, video, or internet to the extent permitted by the rules 543
of the supreme court of Ohio. 544

(5) A parent who is ordered for active military service in 545
the uniformed services and who is a subject of a proceeding 546
pertaining to the allocation or modification of parental rights 547
and responsibilities shall provide written notice to the court, 548
child support enforcement agency, and the other parent of the date 549

of termination of the parent's active military service not later 550
than thirty days after the date on which the service ends. 551

(J) As used in this section: 552

(1) "Abused child" has the same meaning as in section 553
2151.031 of the Revised Code. 554

(2) "Active military service" means ~~the performance of active~~ 555
~~military duty~~ service by a member of the uniformed services ~~for a~~ 556
~~period of more than thirty days~~ in compliance with military orders 557
to report for combat operations, contingency operations, 558
peacekeeping operations, a remote tour of duty, or other active 559
service for which the member is required to report unaccompanied 560
by any family member, including any period of illness, recovery 561
from injury, leave, or other lawful absence during that operation, 562
duty, or service. 563

(3) "Neglected child" has the same meaning as in section 564
2151.03 of the Revised Code. 565

(4) "Sexually oriented offense" has the same meaning as in 566
section 2950.01 of the Revised Code. 567

(5) "Uniformed services" means the United States armed 568
forces, the army national guard, and the air national guard ~~when~~ 569
~~engaged in active duty for training or any reserve component~~ 570
thereof, or the commissioned corps of the United States public 571
health service. 572

(K) As used in the Revised Code, "shared parenting" means 573
that the parents share, in the manner set forth in the plan for 574
shared parenting that is approved by the court under division 575
(D)(1) and described in division (L)(6) of this section, all or 576
some of the aspects of physical and legal care of their children. 577

(L) For purposes of the Revised Code: 578

(1) A parent who is granted the care, custody, and control of 579

a child under an order that was issued pursuant to this section 580
prior to April 11, 1991, and that does not provide for shared 581
parenting has "custody of the child" and "care, custody, and 582
control of the child" under the order, and is the "residential 583
parent," the "residential parent and legal custodian," or the 584
"custodial parent" of the child under the order. 585

(2) A parent who primarily is allocated the parental rights 586
and responsibilities for the care of a child and who is designated 587
as the residential parent and legal custodian of the child under 588
an order that is issued pursuant to this section on or after April 589
11, 1991, and that does not provide for shared parenting has 590
"custody of the child" and "care, custody, and control of the 591
child" under the order, and is the "residential parent," the 592
"residential parent and legal custodian," or the "custodial 593
parent" of the child under the order. 594

(3) A parent who is not granted custody of a child under an 595
order that was issued pursuant to this section prior to April 11, 596
1991, and that does not provide for shared parenting is the 597
"parent who is not the residential parent," the "parent who is not 598
the residential parent and legal custodian," or the "noncustodial 599
parent" of the child under the order. 600

(4) A parent who is not primarily allocated the parental 601
rights and responsibilities for the care of a child and who is not 602
designated as the residential parent and legal custodian of the 603
child under an order that is issued pursuant to this section on or 604
after April 11, 1991, and that does not provide for shared 605
parenting is the "parent who is not the residential parent," the 606
"parent who is not the residential parent and legal custodian," or 607
the "noncustodial parent" of the child under the order. 608

(5) Unless the context clearly requires otherwise, if an 609
order is issued by a court pursuant to this section and the order 610
provides for shared parenting of a child, both parents have 611

"custody of the child" or "care, custody, and control of the 612
child" under the order, to the extent and in the manner specified 613
in the order. 614

(6) Unless the context clearly requires otherwise and except 615
as otherwise provided in the order, if an order is issued by a 616
court pursuant to this section and the order provides for shared 617
parenting of a child, each parent, regardless of where the child 618
is physically located or with whom the child is residing at a 619
particular point in time, as specified in the order, is the 620
"residential parent," the "residential parent and legal 621
custodian," or the "custodial parent" of the child. 622

(7) Unless the context clearly requires otherwise and except 623
as otherwise provided in the order, a designation in the order of 624
a parent as the residential parent for the purpose of determining 625
the school the child attends, as the custodial parent for purposes 626
of claiming the child as a dependent pursuant to section 152(e) of 627
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 628
1, as amended, or as the residential parent for purposes of 629
receiving public assistance pursuant to division (A)(2) of this 630
section, does not affect the designation pursuant to division 631
(L)(6) of this section of each parent as the "residential parent," 632
the "residential parent and legal custodian," or the "custodial 633
parent" of the child. 634

(M) The court shall require each parent of a child to file an 635
affidavit attesting as to whether the parent, and the members of 636
the parent's household, have been convicted of or pleaded guilty 637
to any of the offenses identified in divisions (C) and (F)(1)(h) 638
of this section. 639

Sec. 3109.051. (A) If a divorce, dissolution, legal 640
separation, or annulment proceeding involves a child and if the 641
court has not issued a shared parenting decree, the court shall 642

consider any mediation report filed pursuant to section 3109.052 643
of the Revised Code and, in accordance with division (C) of this 644
section, shall make a just and reasonable order or decree 645
permitting each parent who is not the residential parent to have 646
parenting time with the child at the time and under the conditions 647
that the court directs, unless the court determines that it would 648
not be in the best interest of the child to permit that parent to 649
have parenting time with the child and includes in the journal its 650
findings of fact and conclusions of law. Whenever possible, the 651
order or decree permitting the parenting time shall ensure the 652
opportunity for both parents to have frequent and continuing 653
contact with the child, unless frequent and continuing contact by 654
either parent with the child would not be in the best interest of 655
the child. The court shall include in its final decree a specific 656
schedule of parenting time for that parent. Except as provided in 657
division (E)(6) of section 3113.31 of the Revised Code, if the 658
court, pursuant to this section, grants parenting time to a parent 659
or companionship or visitation rights to any other person with 660
respect to any child, it shall not require the public children 661
services agency to provide supervision of or other services 662
related to that parent's exercise of parenting time or that 663
person's exercise of companionship or visitation rights with 664
respect to the child. This section does not limit the power of a 665
juvenile court pursuant to Chapter 2151. of the Revised Code to 666
issue orders with respect to children who are alleged to be 667
abused, neglected, or dependent children or to make dispositions 668
of children who are adjudicated abused, neglected, or dependent 669
children or of a common pleas court to issue orders pursuant to 670
section 3113.31 of the Revised Code. 671

(B)(1) In a divorce, dissolution of marriage, legal 672
separation, annulment, or child support proceeding that involves a 673
child, the court may grant reasonable companionship or visitation 674

rights to any grandparent, any person related to the child by 675
consanguinity or affinity, or any other person other than a 676
parent, if all of the following apply: 677

(a) The grandparent, relative, or other person files a motion 678
with the court seeking companionship or visitation rights. 679

(b) The court determines that the grandparent, relative, or 680
other person has an interest in the welfare of the child. 681

(c) The court determines that the granting of the 682
companionship or visitation rights is in the best interest of the 683
child. 684

(2) A motion may be filed under division (B)(1) of this 685
section during the pendency of the divorce, dissolution of 686
marriage, legal separation, annulment, or child support proceeding 687
or, if a motion was not filed at that time or was filed at that 688
time and the circumstances in the case have changed, at any time 689
after a decree or final order is issued in the case. 690

(C) When determining whether to grant parenting time rights 691
to a parent pursuant to this section or section 3109.12 of the 692
Revised Code or to grant companionship or visitation rights to a 693
grandparent, relative, or other person pursuant to this section or 694
section 3109.11 or 3109.12 of the Revised Code, when establishing 695
a specific parenting time or visitation schedule, and when 696
determining other parenting time matters under this section or 697
section 3109.12 of the Revised Code or visitation matters under 698
this section or section 3109.11 or 3109.12 of the Revised Code, 699
the court shall consider any mediation report that is filed 700
pursuant to section 3109.052 of the Revised Code and shall 701
consider all other relevant factors, including, but not limited 702
to, all of the factors listed in division (D) of this section. In 703
considering the factors listed in division (D) of this section for 704
purposes of determining whether to grant parenting time or 705

visitation rights, establishing a specific parenting time or 706
visitation schedule, determining other parenting time matters 707
under this section or section 3109.12 of the Revised Code or 708
visitation matters under this section or under section 3109.11 or 709
3109.12 of the Revised Code, and resolving any issues related to 710
the making of any determination with respect to parenting time or 711
visitation rights or the establishment of any specific parenting 712
time or visitation schedule, the court, in its discretion, may 713
interview in chambers any or all involved children regarding their 714
wishes and concerns. If the court interviews any child concerning 715
the child's wishes and concerns regarding those parenting time or 716
visitation matters, the interview shall be conducted in chambers, 717
and no person other than the child, the child's attorney, the 718
judge, any necessary court personnel, and, in the judge's 719
discretion, the attorney of each parent shall be permitted to be 720
present in the chambers during the interview. No person shall 721
obtain or attempt to obtain from a child a written or recorded 722
statement or affidavit setting forth the wishes and concerns of 723
the child regarding those parenting time or visitation matters. A 724
court, in considering the factors listed in division (D) of this 725
section for purposes of determining whether to grant any parenting 726
time or visitation rights, establishing a parenting time or 727
visitation schedule, determining other parenting time matters 728
under this section or section 3109.12 of the Revised Code or 729
visitation matters under this section or under section 3109.11 or 730
3109.12 of the Revised Code, or resolving any issues related to 731
the making of any determination with respect to parenting time or 732
visitation rights or the establishment of any specific parenting 733
time or visitation schedule, shall not accept or consider a 734
written or recorded statement or affidavit that purports to set 735
forth the child's wishes or concerns regarding those parenting 736
time or visitation matters. 737

(D) In determining whether to grant parenting time to a 738

parent pursuant to this section or section 3109.12 of the Revised Code or companionship or visitation rights to a grandparent, relative, or other person pursuant to this section or section 3109.11 or 3109.12 of the Revised Code, in establishing a specific parenting time or visitation schedule, and in determining other parenting time matters under this section or section 3109.12 of the Revised Code or visitation matters under this section or section 3109.11 or 3109.12 of the Revised Code, the court shall consider all of the following factors:

(1) The prior interaction and interrelationships of the child with the child's parents, siblings, and other persons related by consanguinity or affinity, and with the person who requested companionship or visitation if that person is not a parent, sibling, or relative of the child;

(2) The geographical location of the residence of each parent and the distance between those residences, and if the person is not a parent, the geographical location of that person's residence and the distance between that person's residence and the child's residence;

(3) The child's and parents' available time, including, but not limited to, each parent's employment schedule, the child's school schedule, and the child's and the parents' holiday and vacation schedule;

(4) The age of the child;

(5) The child's adjustment to home, school, and community;

(6) If the court has interviewed the child in chambers, pursuant to division (C) of this section, regarding the wishes and concerns of the child as to parenting time by the parent who is not the residential parent or companionship or visitation by the grandparent, relative, or other person who requested companionship or visitation, as to a specific parenting time or visitation

schedule, or as to other parenting time or visitation matters, the	770
wishes and concerns of the child, as expressed to the court;	771
(7) The health and safety of the child;	772
(8) The amount of time that will be available for the child	773
to spend with siblings;	774
(9) The mental and physical health of all parties;	775
(10) Each parent's willingness to reschedule missed parenting	776
time and to facilitate the other parent's parenting time rights,	777
and with respect to a person who requested companionship or	778
visitation, the willingness of that person to reschedule missed	779
visitation;	780
(11) In relation to parenting time, whether either parent	781
previously has been convicted of or pleaded guilty to any criminal	782
offense involving any act that resulted in a child being an abused	783
child or a neglected child; whether either parent, in a case in	784
which a child has been adjudicated an abused child or a neglected	785
child, previously has been determined to be the perpetrator of the	786
abusive or neglectful act that is the basis of the adjudication;	787
and whether there is reason to believe that either parent has	788
acted in a manner resulting in a child being an abused child or a	789
neglected child;	790
(12) In relation to requested companionship or visitation by	791
a person other than a parent, whether the person previously has	792
been convicted of or pleaded guilty to any criminal offense	793
involving any act that resulted in a child being an abused child	794
or a neglected child; whether the person, in a case in which a	795
child has been adjudicated an abused child or a neglected child,	796
previously has been determined to be the perpetrator of the	797
abusive or neglectful act that is the basis of the adjudication;	798
whether either parent previously has been convicted of or pleaded	799
guilty to a violation of section 2919.25 of the Revised Code	800

involving a victim who at the time of the commission of the 801
offense was a member of the family or household that is the 802
subject of the current proceeding; whether either parent 803
previously has been convicted of an offense involving a victim who 804
at the time of the commission of the offense was a member of the 805
family or household that is the subject of the current proceeding 806
and caused physical harm to the victim in the commission of the 807
offense; and whether there is reason to believe that the person 808
has acted in a manner resulting in a child being an abused child 809
or a neglected child; 810

(13) Whether the residential parent or one of the parents 811
subject to a shared parenting decree has continuously and 812
willfully denied the other parent's right to parenting time in 813
accordance with an order of the court; 814

(14) Whether either parent has established a residence or is 815
planning to establish a residence outside this state; 816

(15) In relation to requested companionship or visitation by 817
a person other than a parent, the wishes and concerns of the 818
child's parents, as expressed by them to the court; 819

(16) Any other factor in the best interest of the child. 820

(E) The remarriage of a residential parent of a child does 821
not affect the authority of a court under this section to grant 822
parenting time rights with respect to the child to the parent who 823
is not the residential parent or to grant reasonable companionship 824
or visitation rights with respect to the child to any grandparent, 825
any person related by consanguinity or affinity, or any other 826
person. 827

(F)(1) If the court, pursuant to division (A) of this 828
section, denies parenting time to a parent who is not the 829
residential parent or denies a motion for reasonable companionship 830
or visitation rights filed under division (B) of this section and 831

the parent or movant files a written request for findings of fact 832
and conclusions of law, the court shall state in writing its 833
findings of fact and conclusions of law in accordance with Civil 834
Rule 52. 835

(2) On or before July 1, 1991, each court of common pleas, by 836
rule, shall adopt standard parenting time guidelines. A court 837
shall have discretion to deviate from its standard parenting time 838
guidelines based upon factors set forth in division (D) of this 839
section. 840

(G)(1) If the residential parent intends to move to a 841
residence other than the residence specified in the parenting time 842
order or decree of the court, the parent shall file a notice of 843
intent to relocate with the court that issued the order or decree. 844
Except as provided in divisions (G)(2), (3), and (4) of this 845
section, the court shall send a copy of the notice to the parent 846
who is not the residential parent. Upon receipt of the notice, the 847
court, on its own motion or the motion of the parent who is not 848
the residential parent, may schedule a hearing with notice to both 849
parents to determine whether it is in the best interest of the 850
child to revise the parenting time schedule for the child. 851

(2) When a court grants parenting time rights to a parent who 852
is not the residential parent, the court shall determine whether 853
that parent has been convicted of or pleaded guilty to a violation 854
of section 2919.25 of the Revised Code involving a victim who at 855
the time of the commission of the offense was a member of the 856
family or household that is the subject of the proceeding, has 857
been convicted of or pleaded guilty to any other offense involving 858
a victim who at the time of the commission of the offense was a 859
member of the family or household that is the subject of the 860
proceeding and caused physical harm to the victim in the 861
commission of the offense, or has been determined to be the 862
perpetrator of the abusive act that is the basis of an 863

adjudication that a child is an abused child. If the court 864
determines that that parent has not been so convicted and has not 865
been determined to be the perpetrator of an abusive act that is 866
the basis of a child abuse adjudication, the court shall issue an 867
order stating that a copy of any notice of relocation that is 868
filed with the court pursuant to division (G)(1) of this section 869
will be sent to the parent who is given the parenting time rights 870
in accordance with division (G)(1) of this section. 871

If the court determines that the parent who is granted the 872
parenting time rights has been convicted of or pleaded guilty to a 873
violation of section 2919.25 of the Revised Code involving a 874
victim who at the time of the commission of the offense was a 875
member of the family or household that is the subject of the 876
proceeding, has been convicted of or pleaded guilty to any other 877
offense involving a victim who at the time of the commission of 878
the offense was a member of the family or household that is the 879
subject of the proceeding and caused physical harm to the victim 880
in the commission of the offense, or has been determined to be the 881
perpetrator of the abusive act that is the basis of an 882
adjudication that a child is an abused child, it shall issue an 883
order stating that that parent will not be given a copy of any 884
notice of relocation that is filed with the court pursuant to 885
division (G)(1) of this section unless the court determines that 886
it is in the best interest of the children to give that parent a 887
copy of the notice of relocation, issues an order stating that 888
that parent will be given a copy of any notice of relocation filed 889
pursuant to division (G)(1) of this section, and issues specific 890
written findings of fact in support of its determination. 891

(3) If a court, prior to April 11, 1991, issued an order 892
granting parenting time rights to a parent who is not the 893
residential parent and did not require the residential parent in 894
that order to give the parent who is granted the parenting time 895

rights notice of any change of address and if the residential 896
parent files a notice of relocation pursuant to division (G)(1) of 897
this section, the court shall determine if the parent who is 898
granted the parenting time rights has been convicted of or pleaded 899
guilty to a violation of section 2919.25 of the Revised Code 900
involving a victim who at the time of the commission of the 901
offense was a member of the family or household that is the 902
subject of the proceeding, has been convicted of or pleaded guilty 903
to any other offense involving a victim who at the time of the 904
commission of the offense was a member of the family or household 905
that is the subject of the proceeding and caused physical harm to 906
the victim in the commission of the offense, or has been 907
determined to be the perpetrator of the abusive act that is the 908
basis of an adjudication that a child is an abused child. If the 909
court determines that the parent who is granted the parenting time 910
rights has not been so convicted and has not been determined to be 911
the perpetrator of an abusive act that is the basis of a child 912
abuse adjudication, the court shall issue an order stating that a 913
copy of any notice of relocation that is filed with the court 914
pursuant to division (G)(1) of this section will be sent to the 915
parent who is granted parenting time rights in accordance with 916
division (G)(1) of this section. 917

If the court determines that the parent who is granted the 918
parenting time rights has been convicted of or pleaded guilty to a 919
violation of section 2919.25 of the Revised Code involving a 920
victim who at the time of the commission of the offense was a 921
member of the family or household that is the subject of the 922
proceeding, has been convicted of or pleaded guilty to any other 923
offense involving a victim who at the time of the commission of 924
the offense was a member of the family or household that is the 925
subject of the proceeding and caused physical harm to the victim 926
in the commission of the offense, or has been determined to be the 927
perpetrator of the abusive act that is the basis of an 928

adjudication that a child is an abused child, it shall issue an 929
order stating that that parent will not be given a copy of any 930
notice of relocation that is filed with the court pursuant to 931
division (G)(1) of this section unless the court determines that 932
it is in the best interest of the children to give that parent a 933
copy of the notice of relocation, issues an order stating that 934
that parent will be given a copy of any notice of relocation filed 935
pursuant to division (G)(1) of this section, and issues specific 936
written findings of fact in support of its determination. 937

(4) If a parent who is granted parenting time rights pursuant 938
to this section or any other section of the Revised Code is 939
authorized by an order issued pursuant to this section or any 940
other court order to receive a copy of any notice of relocation 941
that is filed pursuant to division (G)(1) of this section or 942
pursuant to court order, if the residential parent intends to move 943
to a residence other than the residence address specified in the 944
parenting time order, and if the residential parent does not want 945
the parent who is granted the parenting time rights to receive a 946
copy of the relocation notice because the parent with parenting 947
time rights has been convicted of or pleaded guilty to a violation 948
of section 2919.25 of the Revised Code involving a victim who at 949
the time of the commission of the offense was a member of the 950
family or household that is the subject of the proceeding, has 951
been convicted of or pleaded guilty to any other offense involving 952
a victim who at the time of the commission of the offense was a 953
member of the family or household that is the subject of the 954
proceeding and caused physical harm to the victim in the 955
commission of the offense, or has been determined to be the 956
perpetrator of the abusive act that is the basis of an 957
adjudication that a child is an abused child, the residential 958
parent may file a motion with the court requesting that the parent 959
who is granted the parenting time rights not receive a copy of any 960
notice of relocation. Upon the filing of the motion, the court 961

shall schedule a hearing on the motion and give both parents 962
notice of the date, time, and location of the hearing. If the 963
court determines that the parent who is granted the parenting time 964
rights has been so convicted or has been determined to be the 965
perpetrator of an abusive act that is the basis of a child abuse 966
adjudication, the court shall issue an order stating that the 967
parent who is granted the parenting time rights will not be given 968
a copy of any notice of relocation that is filed with the court 969
pursuant to division (G)(1) of this section or that the 970
residential parent is no longer required to give that parent a 971
copy of any notice of relocation unless the court determines that 972
it is in the best interest of the children to give that parent a 973
copy of the notice of relocation, issues an order stating that 974
that parent will be given a copy of any notice of relocation filed 975
pursuant to division (G)(1) of this section, and issues specific 976
written findings of fact in support of its determination. If it 977
does not so find, it shall dismiss the motion. 978

(H)(1) Subject to section 3125.16 and division (F) of section 979
3319.321 of the Revised Code, a parent of a child who is not the 980
residential parent of the child is entitled to access, under the 981
same terms and conditions under which access is provided to the 982
residential parent, to any record that is related to the child and 983
to which the residential parent of the child legally is provided 984
access, unless the court determines that it would not be in the 985
best interest of the child for the parent who is not the 986
residential parent to have access to the records under those same 987
terms and conditions. If the court determines that the parent of a 988
child who is not the residential parent should not have access to 989
records related to the child under the same terms and conditions 990
as provided for the residential parent, the court shall specify 991
the terms and conditions under which the parent who is not the 992
residential parent is to have access to those records, shall enter 993
its written findings of facts and opinion in the journal, and 994

shall issue an order containing the terms and conditions to both 995
the residential parent and the parent of the child who is not the 996
residential parent. The court shall include in every order issued 997
pursuant to this division notice that any keeper of a record who 998
knowingly fails to comply with the order or division (H) of this 999
section is in contempt of court. 1000

(2) Subject to section 3125.16 and division (F) of section 1001
3319.321 of the Revised Code, subsequent to the issuance of an 1002
order under division (H)(1) of this section, the keeper of any 1003
record that is related to a particular child and to which the 1004
residential parent legally is provided access shall permit the 1005
parent of the child who is not the residential parent to have 1006
access to the record under the same terms and conditions under 1007
which access is provided to the residential parent, unless the 1008
residential parent has presented the keeper of the record with a 1009
copy of an order issued under division (H)(1) of this section that 1010
limits the terms and conditions under which the parent who is not 1011
the residential parent is to have access to records pertaining to 1012
the child and the order pertains to the record in question. If the 1013
residential parent presents the keeper of the record with a copy 1014
of that type of order, the keeper of the record shall permit the 1015
parent who is not the residential parent to have access to the 1016
record only in accordance with the most recent order that has been 1017
issued pursuant to division (H)(1) of this section and presented 1018
to the keeper by the residential parent or the parent who is not 1019
the residential parent. Any keeper of any record who knowingly 1020
fails to comply with division (H) of this section or with any 1021
order issued pursuant to division (H)(1) of this section is in 1022
contempt of court. 1023

(3) The prosecuting attorney of any county may file a 1024
complaint with the court of common pleas of that county requesting 1025
the court to issue a protective order preventing the disclosure 1026

pursuant to division (H)(1) or (2) of this section of any 1027
confidential law enforcement investigatory record. The court shall 1028
schedule a hearing on the motion and give notice of the date, 1029
time, and location of the hearing to all parties. 1030

(I) A court that issues a parenting time order or decree 1031
pursuant to this section or section 3109.12 of the Revised Code 1032
shall determine whether the parent granted the right of parenting 1033
time is to be permitted access, in accordance with section 1034
5104.011 of the Revised Code, to any child day-care center that 1035
is, or that in the future may be, attended by the children with 1036
whom the right of parenting time is granted. Unless the court 1037
determines that the parent who is not the residential parent 1038
should not have access to the center to the same extent that the 1039
residential parent is granted access to the center, the parent who 1040
is not the residential parent and who is granted parenting time 1041
rights is entitled to access to the center to the same extent that 1042
the residential parent is granted access to the center. If the 1043
court determines that the parent who is not the residential parent 1044
should not have access to the center to the same extent that the 1045
residential parent is granted such access under division (C) of 1046
section 5104.011 of the Revised Code, the court shall specify the 1047
terms and conditions under which the parent who is not the 1048
residential parent is to have access to the center, provided that 1049
the access shall not be greater than the access that is provided 1050
to the residential parent under division (C) of section 5104.011 1051
of the Revised Code, the court shall enter its written findings of 1052
fact and opinions in the journal, and the court shall include the 1053
terms and conditions of access in the parenting time order or 1054
decree. 1055

(J)(1) Subject to division (F) of section 3319.321 of the 1056
Revised Code, when a court issues an order or decree allocating 1057
parental rights and responsibilities for the care of a child, the 1058

parent of the child who is not the residential parent of the child 1059
is entitled to access, under the same terms and conditions under 1060
which access is provided to the residential parent, to any student 1061
activity that is related to the child and to which the residential 1062
parent of the child legally is provided access, unless the court 1063
determines that it would not be in the best interest of the child 1064
to grant the parent who is not the residential parent access to 1065
the student activities under those same terms and conditions. If 1066
the court determines that the parent of the child who is not the 1067
residential parent should not have access to any student activity 1068
that is related to the child under the same terms and conditions 1069
as provided for the residential parent, the court shall specify 1070
the terms and conditions under which the parent who is not the 1071
residential parent is to have access to those student activities, 1072
shall enter its written findings of facts and opinion in the 1073
journal, and shall issue an order containing the terms and 1074
conditions to both the residential parent and the parent of the 1075
child who is not the residential parent. The court shall include 1076
in every order issued pursuant to this division notice that any 1077
school official or employee who knowingly fails to comply with the 1078
order or division (J) of this section is in contempt of court. 1079

(2) Subject to division (F) of section 3319.321 of the 1080
Revised Code, subsequent to the issuance of an order under 1081
division (J)(1) of this section, all school officials and 1082
employees shall permit the parent of the child who is not the 1083
residential parent to have access to any student activity under 1084
the same terms and conditions under which access is provided to 1085
the residential parent of the child, unless the residential parent 1086
has presented the school official or employee, the board of 1087
education of the school, or the governing body of the chartered 1088
nonpublic school with a copy of an order issued under division 1089
(J)(1) of this section that limits the terms and conditions under 1090
which the parent who is not the residential parent is to have 1091

access to student activities related to the child and the order 1092
pertains to the student activity in question. If the residential 1093
parent presents the school official or employee, the board of 1094
education of the school, or the governing body of the chartered 1095
nonpublic school with a copy of that type of order, the school 1096
official or employee shall permit the parent who is not the 1097
residential parent to have access to the student activity only in 1098
accordance with the most recent order that has been issued 1099
pursuant to division (J)(1) of this section and presented to the 1100
school official or employee, the board of education of the school, 1101
or the governing body of the chartered nonpublic school by the 1102
residential parent or the parent who is not the residential 1103
parent. Any school official or employee who knowingly fails to 1104
comply with division (J) of this section or with any order issued 1105
pursuant to division (J)(1) of this section is in contempt of 1106
court. 1107

(K) If any person is found in contempt of court for failing 1108
to comply with or interfering with any order or decree granting 1109
parenting time rights issued pursuant to this section or section 1110
3109.12 of the Revised Code or companionship or visitation rights 1111
issued pursuant to this section, section 3109.11 or 3109.12 of the 1112
Revised Code, or any other provision of the Revised Code, the 1113
court that makes the finding, in addition to any other penalty or 1114
remedy imposed, shall assess all court costs arising out of the 1115
contempt proceeding against the person and require the person to 1116
pay any reasonable attorney's fees of any adverse party, as 1117
determined by the court, that arose in relation to the act of 1118
contempt, and may award reasonable compensatory parenting time or 1119
visitation to the person whose right of parenting time or 1120
visitation was affected by the failure or interference if such 1121
compensatory parenting time or visitation is in the best interest 1122
of the child. Any compensatory parenting time or visitation 1123
awarded under this division shall be included in an order issued 1124

by the court and, to the extent possible, shall be governed by the 1125
same terms and conditions as was the parenting time or visitation 1126
that was affected by the failure or interference. 1127

(L) Any parent who requests reasonable parenting time rights 1128
with respect to a child under this section or section 3109.12 of 1129
the Revised Code or any person who requests reasonable 1130
companionship or visitation rights with respect to a child under 1131
this section, section 3109.11 or 3109.12 of the Revised Code, or 1132
any other provision of the Revised Code may file a motion with the 1133
court requesting that it waive all or any part of the costs that 1134
may accrue in the proceedings. If the court determines that the 1135
movant is indigent and that the waiver is in the best interest of 1136
the child, the court, in its discretion, may waive payment of all 1137
or any part of the costs of those proceedings. 1138

(M)(1) A parent who receives an order for active military 1139
service in the uniformed services and who is subject to a 1140
parenting time order may apply to the court for any of the 1141
following temporary orders for the period extending from the date 1142
of the parent's departure to the date of return: 1143

(a) An order delegating all or part of the parent's parenting 1144
time with the child to a relative or to another person who has a 1145
close and substantial relationship with the child if the 1146
delegation is in the child's best interest; 1147

(b) An order that the other parent make the child reasonably 1148
available for parenting time with the parent when the parent is on 1149
leave from active military service; 1150

(c) An order that the other parent facilitate contact, 1151
including telephone and electronic contact, between the parent and 1152
child while the parent is on active military service. 1153

(2)(a) Upon receipt of an order for active military service, 1154
a parent who is subject to a parenting time order and seeks an 1155

order under division (M)(1) of this section shall notify the other 1156
parent who is subject to the parenting time order and apply to the 1157
court as soon as reasonably possible after receipt of the order 1158
for active military service. The application shall include the 1159
date on which the active military service begins. 1160

(b) The court shall schedule a hearing upon receipt of an 1161
application under division (M) of this section and hold the 1162
hearing not later than thirty days after its receipt, except that 1163
the court shall give the case calendar priority and handle the 1164
case expeditiously if exigent circumstances exist in the case. No 1165
hearing shall be required if both parents agree to the terms of 1166
the requested temporary order and the court determines that the 1167
order is in the child's best interest. 1168

(c) In determining whether a delegation under division 1169
(M)(1)(a) of this section is in the child's best interest, the 1170
court shall consider all relevant factors, including the factors 1171
set forth in division (D) of this section. 1172

(d) An order delegating all or part of the parent's parenting 1173
time pursuant to division (M)(1)(a) of this section does not 1174
create standing on behalf of the person to whom parenting time is 1175
delegated to assert visitation or companionship rights independent 1176
of the order. 1177

(3) At the request of a parent who is ordered for active 1178
military service in the uniformed services and who is a subject of 1179
a proceeding pertaining to a parenting time order or pertaining to 1180
a request for companionship rights or visitation with a child, the 1181
court shall permit the parent to participate in the proceeding and 1182
present evidence by electronic means, including communication by 1183
telephone, video, or internet to the extent permitted by rules of 1184
the supreme court of Ohio. 1185

(N) The juvenile court has exclusive jurisdiction to enter 1186

the orders in any case certified to it from another court. 1187

~~(N)~~(O) As used in this section: 1188

(1) "Abused child" has the same meaning as in section 1189
2151.031 of the Revised Code, and "neglected child" has the same 1190
meaning as in section 2151.03 of the Revised Code. 1191

(2) "Active military service" and "uniformed services" have 1192
the same meanings as in section 3109.04 of the Revised Code. 1193

(3) "Confidential law enforcement investigatory record" has 1194
the same meaning as in section 149.43 of the Revised Code. 1195

(4) "Parenting time order" means an order establishing the 1196
amount of time that a child spends with the parent who is not the 1197
residential parent or the amount of time that the child is to be 1198
physically located with a parent under a shared parenting order. 1199

(5) "Record" means any record, document, file, or other 1200
material that contains information directly related to a child, 1201
including, but not limited to, any of the following: 1202

(a) Records maintained by public and nonpublic schools; 1203

(b) Records maintained by facilities that provide child care, 1204
as defined in section 5104.01 of the Revised Code, publicly funded 1205
child care, as defined in section 5104.01 of the Revised Code, or 1206
pre-school services operated by or under the supervision of a 1207
school district board of education or a nonpublic school; 1208

(c) Records maintained by hospitals, other facilities, or 1209
persons providing medical or surgical care or treatment for the 1210
child; 1211

(d) Records maintained by agencies, departments, 1212
instrumentalities, or other entities of the state or any political 1213
subdivision of the state, other than a child support enforcement 1214
agency. Access to records maintained by a child support 1215
enforcement agency is governed by section 3125.16 of the Revised 1216

Code. 1217

~~(3) "Confidential law enforcement investigatory record" has 1218~~
~~the same meaning as in section 149.43 of the Revised Code. 1219~~

Section 2. That existing sections 3109.04 and 3109.051 of the 1220
Revised Code are hereby repealed. 1221

Section 3. This act is hereby declared to be an emergency 1222
measure necessary for the immediate preservation of the public 1223
peace, health, and safety. The reason for such necessity is that a 1224
number of members of the Ohio National Guard face imminent 1225
deployment, and this act is essential to protect their parental 1226
rights. Therefore, this act shall go into immediate effect. 1227

Section 4. The General Assembly urges the Supreme Court of 1228
Ohio to promulgate any changes to its rules necessary to implement 1229
this act before the act's effective date. 1230