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Representative Rosenberger

**Cosponsors: Representatives Gonzales, O'Brien, Mecklenborg, Beck, Pillich,
Johnson, Thompson, Bulp, Martin, Slaby, Fende, Fedor, Yuko**

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A B I L L

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

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

Section 1. That sections 3109.04 and 3109.051 of the Revised 4
Code be amended to read as follows: 5

Sec. 3109.04. (A) In any divorce, legal separation, or 6
annulment proceeding and in any proceeding pertaining to the 7
allocation of parental rights and responsibilities for the care of 8
a child, upon hearing the testimony of either or both parents and 9
considering any mediation report filed pursuant to section 10
3109.052 of the Revised Code and in accordance with sections 11
3127.01 to 3127.53 of the Revised Code, the court shall allocate 12
the parental rights and responsibilities for the care of the minor 13
children of the marriage. Subject to division (D)(2) of this 14
section, the court may allocate the parental rights and 15
responsibilities for the care of the children in either of the 16
following ways: 17

(1) If neither parent files a pleading or motion in 18

accordance with division (G) of this section, if at least one 19
parent files a pleading or motion under that division but no 20
parent who filed a pleading or motion under that division also 21
files a plan for shared parenting, or if at least one parent files 22
both a pleading or motion and a shared parenting plan under that 23
division but no plan for shared parenting is in the best interest 24
of the children, the court, in a manner consistent with the best 25
interest of the children, shall allocate the parental rights and 26
responsibilities for the care of the children primarily to one of 27
the parents, designate that parent as the residential parent and 28
the legal custodian of the child, and divide between the parents 29
the other rights and responsibilities for the care of the 30
children, including, but not limited to, the responsibility to 31
provide support for the children and the right of the parent who 32
is not the residential parent to have continuing contact with the 33
children. 34

(2) If at least one parent files a pleading or motion in 35
accordance with division (G) of this section and a plan for shared 36
parenting pursuant to that division and if a plan for shared 37
parenting is in the best interest of the children and is approved 38
by the court in accordance with division (D)(1) of this section, 39
the court may allocate the parental rights and responsibilities 40
for the care of the children to both parents and issue a shared 41
parenting order requiring the parents to share all or some of the 42
aspects of the physical and legal care of the children in 43
accordance with the approved plan for shared parenting. If the 44
court issues a shared parenting order under this division and it 45
is necessary for the purpose of receiving public assistance, the 46
court shall designate which one of the parents' residences is to 47
serve as the child's home. The child support obligations of the 48
parents under a shared parenting order issued under this division 49
shall be determined in accordance with Chapters 3119., 3121., 50
3123., and 3125. of the Revised Code. 51

(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 either parent, shall appoint a guardian ad litem for the child.

(b) The court first shall determine the reasoning ability of the child. If the court determines that the child does not have sufficient reasoning ability to express the child's wishes and concern with respect to the allocation of parental rights and responsibilities for the care of the child, it shall not determine the child's wishes and concerns with respect to the allocation. If the court determines that the child has sufficient reasoning ability to express the child's wishes or concerns with respect to the allocation, it then shall determine whether, because of special circumstances, it would not be in the best interest of the child to determine the child's wishes and concerns with respect to the allocation. If the court determines that, because of special circumstances, it would not be in the best interest of the child to determine the child's wishes and concerns with respect to the allocation, it shall not determine the child's wishes and concerns

with respect to the allocation and shall enter its written 84
findings of fact and opinion in the journal. If the court 85
determines that it would be in the best interests of the child to 86
determine the child's wishes and concerns with respect to the 87
allocation, it shall proceed to make that determination. 88

(c) The interview shall be conducted in chambers, and no 89
person other than the child, the child's attorney, the judge, any 90
necessary court personnel, and, in the judge's discretion, the 91
attorney of each parent shall be permitted to be present in the 92
chambers during the interview. 93

(3) No person shall obtain or attempt to obtain from a child 94
a written or recorded statement or affidavit setting forth the 95
child's wishes and concerns regarding the allocation of parental 96
rights and responsibilities concerning the child. No court, in 97
determining the child's best interest for purposes of making its 98
allocation of the parental rights and responsibilities for the 99
care of the child or for purposes of resolving any issues related 100
to the making of that allocation, shall accept or consider a 101
written or recorded statement or affidavit that purports to set 102
forth the child's wishes and concerns regarding those matters. 103

(C) Prior to trial, the court may cause an investigation to 104
be made as to the character, family relations, past conduct, 105
earning ability, and financial worth of each parent and may order 106
the parents and their minor children to submit to medical, 107
psychological, and psychiatric examinations. The report of the 108
investigation and examinations shall be made available to either 109
parent or the parent's counsel of record not less than five days 110
before trial, upon written request. The report shall be signed by 111
the investigator, and the investigator shall be subject to 112
cross-examination by either parent concerning the contents of the 113
report. The court may tax as costs all or any part of the expenses 114
for each investigation. 115

If the court determines that either parent previously has 116
been convicted of or pleaded guilty to any criminal offense 117
involving any act that resulted in a child being a neglected 118
child, that either parent previously has been determined to be the 119
perpetrator of the neglectful act that is the basis of an 120
adjudication that a child is a neglected child, or that there is 121
reason to believe that either parent has acted in a manner 122
resulting in a child being a neglected child, the court shall 123
consider that fact against naming that parent the residential 124
parent and against granting a shared parenting decree. When the 125
court allocates parental rights and responsibilities for the care 126
of children or determines whether to grant shared parenting in any 127
proceeding, it shall consider whether either parent or any member 128
of the household of either parent has been convicted of or pleaded 129
guilty to a violation of section 2919.25 of the Revised Code or a 130
sexually oriented offense involving a victim who at the time of 131
the commission of the offense was a member of the family or 132
household that is the subject of the proceeding, has been 133
convicted of or pleaded guilty to any sexually oriented offense or 134
other offense involving a victim who at the time of the commission 135
of the offense was a member of the family or household that is the 136
subject of the proceeding and caused physical harm to the victim 137
in the commission of the offense, or has been determined to be the 138
perpetrator of the abusive act that is the basis of an 139
adjudication that a child is an abused child. If the court 140
determines that either parent has been convicted of or pleaded 141
guilty to a violation of section 2919.25 of the Revised Code or a 142
sexually oriented offense involving a victim who at the time of 143
the commission of the offense was a member of the family or 144
household that is the subject of the proceeding, has been 145
convicted of or pleaded guilty to any sexually oriented offense or 146
other offense involving a victim who at the time of the commission 147
of the offense was a member of the family or household that is the 148

subject of the proceeding and caused physical harm to the victim 149
in the commission of the offense, or has been determined to be the 150
perpetrator of the abusive act that is the basis of an 151
adjudication that a child is an abused child, it may designate 152
that parent as the residential parent and may issue a shared 153
parenting decree or order only if it determines that it is in the 154
best interest of the child to name that parent the residential 155
parent or to issue a shared parenting decree or order and it makes 156
specific written findings of fact to support its determination. 157

(D)(1)(a) Upon the filing of a pleading or motion by either 158
parent or both parents, in accordance with division (G) of this 159
section, requesting shared parenting and the filing of a shared 160
parenting plan in accordance with that division, the court shall 161
comply with division (D)(1)(a)(i), (ii), or (iii) of this section, 162
whichever is applicable: 163

(i) If both parents jointly make the request in their 164
pleadings or jointly file the motion and also jointly file the 165
plan, the court shall review the parents' plan to determine if it 166
is in the best interest of the children. If the court determines 167
that the plan is in the best interest of the children, the court 168
shall approve it. If the court determines that the plan or any 169
part of the plan is not in the best interest of the children, the 170
court shall require the parents to make appropriate changes to the 171
plan to meet the court's objections to it. If changes to the plan 172
are made to meet the court's objections, and if the new plan is in 173
the best interest of the children, the court shall approve the 174
plan. If changes to the plan are not made to meet the court's 175
objections, or if the parents attempt to make changes to the plan 176
to meet the court's objections, but the court determines that the 177
new plan or any part of the new plan still is not in the best 178
interest of the children, the court may reject the portion of the 179
parents' pleadings or deny their motion requesting shared 180

parenting of the children and proceed as if the request in the 181
pleadings or the motion had not been made. The court shall not 182
approve a plan under this division unless it determines that the 183
plan is in the best interest of the children. 184

(ii) If each parent makes a request in the parent's pleadings 185
or files a motion and each also files a separate plan, the court 186
shall review each plan filed to determine if either is in the best 187
interest of the children. If the court determines that one of the 188
filed plans is in the best interest of the children, the court may 189
approve the plan. If the court determines that neither filed plan 190
is in the best interest of the children, the court may order each 191
parent to submit appropriate changes to the parent's plan or both 192
of the filed plans to meet the court's objections, or may select 193
one of the filed plans and order each parent to submit appropriate 194
changes to the selected plan to meet the court's objections. If 195
changes to the plan or plans are submitted to meet the court's 196
objections, and if any of the filed plans with the changes is in 197
the best interest of the children, the court may approve the plan 198
with the changes. If changes to the plan or plans are not 199
submitted to meet the court's objections, or if the parents submit 200
changes to the plan or plans to meet the court's objections but 201
the court determines that none of the filed plans with the 202
submitted changes is in the best interest of the children, the 203
court may reject the portion of the parents' pleadings or deny 204
their motions requesting shared parenting of the children and 205
proceed as if the requests in the pleadings or the motions had not 206
been made. If the court approves a plan under this division, 207
either as originally filed or with submitted changes, or if the 208
court rejects the portion of the parents' pleadings or denies 209
their motions requesting shared parenting under this division and 210
proceeds as if the requests in the pleadings or the motions had 211
not been made, the court shall enter in the record of the case 212
findings of fact and conclusions of law as to the reasons for the 213

approval or the rejection or denial. Division (D)(1)(b) of this 214
section applies in relation to the approval or disapproval of a 215
plan under this division. 216

(iii) If each parent makes a request in the parent's 217
pleadings or files a motion but only one parent files a plan, or 218
if only one parent makes a request in the parent's pleadings or 219
files a motion and also files a plan, the court in the best 220
interest of the children may order the other parent to file a plan 221
for shared parenting in accordance with division (G) of this 222
section. The court shall review each plan filed to determine if 223
any plan is in the best interest of the children. If the court 224
determines that one of the filed plans is in the best interest of 225
the children, the court may approve the plan. If the court 226
determines that no filed plan is in the best interest of the 227
children, the court may order each parent to submit appropriate 228
changes to the parent's plan or both of the filed plans to meet 229
the court's objections or may select one filed plan and order each 230
parent to submit appropriate changes to the selected plan to meet 231
the court's objections. If changes to the plan or plans are 232
submitted to meet the court's objections, and if any of the filed 233
plans with the changes is in the best interest of the children, 234
the court may approve the plan with the changes. If changes to the 235
plan or plans are not submitted to meet the court's objections, or 236
if the parents submit changes to the plan or plans to meet the 237
court's objections but the court determines that none of the filed 238
plans with the submitted changes is in the best interest of the 239
children, the court may reject the portion of the parents' 240
pleadings or deny the parents' motion or reject the portion of the 241
parents' pleadings or deny their motions requesting shared 242
parenting of the children and proceed as if the request or 243
requests or the motion or motions had not been made. If the court 244
approves a plan under this division, either as originally filed or 245
with submitted changes, or if the court rejects the portion of the 246

pleadings or denies the motion or motions requesting shared 247
parenting under this division and proceeds as if the request or 248
requests or the motion or motions had not been made, the court 249
shall enter in the record of the case findings of fact and 250
conclusions of law as to the reasons for the approval or the 251
rejection or denial. Division (D)(1)(b) of this section applies in 252
relation to the approval or disapproval of a plan under this 253
division. 254

(b) The approval of a plan under division (D)(1)(a)(ii) or 255
(iii) of this section is discretionary with the court. The court 256
shall not approve more than one plan under either division and 257
shall not approve a plan under either division unless it 258
determines that the plan is in the best interest of the children. 259
If the court, under either division, does not determine that any 260
filed plan or any filed plan with submitted changes is in the best 261
interest of the children, the court shall not approve any plan. 262

(c) Whenever possible, the court shall require that a shared 263
parenting plan approved under division (D)(1)(a)(i), (ii), or 264
(iii) of this section ensure the opportunity for both parents to 265
have frequent and continuing contact with the child, unless 266
frequent and continuing contact with any parent would not be in 267
the best interest of the child. 268

(d) If a court approves a shared parenting plan under 269
division (D)(1)(a)(i), (ii), or (iii) of this section, the 270
approved plan shall be incorporated into a final shared parenting 271
decree granting the parents the shared parenting of the children. 272
Any final shared parenting decree shall be issued at the same time 273
as and shall be appended to the final decree of dissolution, 274
divorce, annulment, or legal separation arising out of the action 275
out of which the question of the allocation of parental rights and 276
responsibilities for the care of the children arose. 277

No provisional shared parenting decree shall be issued in 278

relation to any shared parenting plan approved under division 279
(D)(1)(a)(i), (ii), or (iii) of this section. A final shared 280
parenting decree issued under this division has immediate effect 281
as a final decree on the date of its issuance, subject to 282
modification or termination as authorized by this section. 283

(2) If the court finds, with respect to any child under 284
eighteen years of age, that it is in the best interest of the 285
child for neither parent to be designated the residential parent 286
and legal custodian of the child, it may commit the child to a 287
relative of the child or certify a copy of its findings, together 288
with as much of the record and the further information, in 289
narrative form or otherwise, that it considers necessary or as the 290
juvenile court requests, to the juvenile court for further 291
proceedings, and, upon the certification, the juvenile court has 292
exclusive jurisdiction. 293

(E)(1)(a) The court shall not modify a prior decree 294
allocating parental rights and responsibilities for the care of 295
children unless it finds, based on facts that have arisen since 296
the prior decree or that were unknown to the court at the time of 297
the prior decree, that a change has occurred in the circumstances 298
of the child, the child's residential parent, or either of the 299
parents subject to a shared parenting decree, and that the 300
modification is necessary to serve the best interest of the child. 301
In applying these standards, the court shall retain the 302
residential parent designated by the prior decree or the prior 303
shared parenting decree, unless a modification is in the best 304
interest of the child and one of the following applies: 305

(i) The residential parent agrees to a change in the 306
residential parent or both parents under a shared parenting decree 307
agree to a change in the designation of residential parent. 308

(ii) The child, with the consent of the residential parent or 309
of both parents under a shared parenting decree, has been 310

integrated into the family of the person seeking to become the residential parent.

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

(b) One or both of the parents under a prior decree allocating parental rights and responsibilities for the care of children that is not a shared parenting decree may file a motion requesting that the prior decree be modified to give both parents shared rights and responsibilities for the care of the children. The motion shall include both a request for modification of the prior decree and a request for a shared parenting order that complies with division (G) of this section. Upon the filing of the motion, if the court determines that a modification of the prior decree is authorized under division (E)(1)(a) of this section, the court may modify the prior decree to grant a shared parenting order, provided that the court shall not modify the prior decree to grant a shared parenting order unless the court complies with divisions (A) and (D)(1) of this section and, in accordance with those divisions, approves the submitted shared parenting plan and determines that shared parenting would be in the best interest of the children.

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

(a) Both parents under a shared parenting decree jointly may modify the terms of the plan for shared parenting approved by the court and incorporated by it into the shared parenting decree. Modifications under this division may be made at any time. The modifications to the plan shall be filed jointly by both parents with the court, and the court shall include them in the plan, unless they are not in the best interest of the children. If the modifications are not in the best interests of the children, the

court, in its discretion, may reject the modifications or make 343
modifications to the proposed modifications or the plan that are 344
in the best interest of the children. Modifications jointly 345
submitted by both parents under a shared parenting decree shall be 346
effective, either as originally filed or as modified by the court, 347
upon their inclusion by the court in the plan. Modifications to 348
the plan made by the court shall be effective upon their inclusion 349
by the court in the plan. 350

(b) The court may modify the terms of the plan for shared 351
parenting approved by the court and incorporated by it into the 352
shared parenting decree upon its own motion at any time if the 353
court determines that the modifications are in the best interest 354
of the children or upon the request of one or both of the parents 355
under the decree. Modifications under this division may be made at 356
any time. The court shall not make any modification to the plan 357
under this division, unless the modification is in the best 358
interest of the children. 359

(c) The court may terminate a prior final shared parenting 360
decree that includes a shared parenting plan approved under 361
division (D)(1)(a)(i) of this section upon the request of one or 362
both of the parents or whenever it determines that shared 363
parenting is not in the best interest of the children. The court 364
may terminate a prior final shared parenting decree that includes 365
a shared parenting plan approved under division (D)(1)(a)(ii) or 366
(iii) of this section if it determines, upon its own motion or 367
upon the request of one or both parents, that shared parenting is 368
not in the best interest of the children. If modification of the 369
terms of the plan for shared parenting approved by the court and 370
incorporated by it into the final shared parenting decree is 371
attempted under division (E)(2)(a) of this section and the court 372
rejects the modifications, it may terminate the final shared 373
parenting decree if it determines that shared parenting is not in 374

the best interest of the children. 375

(d) Upon the termination of a prior final shared parenting 376
decree under division (E)(2)(c) of this section, the court shall 377
proceed and issue a modified decree for the allocation of parental 378
rights and responsibilities for the care of the children under the 379
standards applicable under divisions (A), (B), and (C) of this 380
section as if no decree for shared parenting had been granted and 381
as if no request for shared parenting ever had been made. 382

(F)(1) In determining the best interest of a child pursuant 383
to this section, whether on an original decree allocating parental 384
rights and responsibilities for the care of children or a 385
modification of a decree allocating those rights and 386
responsibilities, the court shall consider all relevant factors, 387
including, but not limited to: 388

(a) The wishes of the child's parents regarding the child's 389
care; 390

(b) If the court has interviewed the child in chambers 391
pursuant to division (B) of this section regarding the child's 392
wishes and concerns as to the allocation of parental rights and 393
responsibilities concerning the child, the wishes and concerns of 394
the child, as expressed to the court; 395

(c) The child's interaction and interrelationship with the 396
child's parents, siblings, and any other person who may 397
significantly affect the child's best interest; 398

(d) The child's adjustment to the child's home, school, and 399
community; 400

(e) The mental and physical health of all persons involved in 401
the situation; 402

(f) The parent more likely to honor and facilitate 403
court-approved parenting time rights or visitation and 404

companionship rights; 405

(g) Whether either parent has failed to make all child 406
support payments, including all arrearages, that are required of 407
that parent pursuant to a child support order under which that 408
parent is an obligor; 409

(h) Whether either parent or any member of the household of 410
either parent previously has been convicted of or pleaded guilty 411
to any criminal offense involving any act that resulted in a child 412
being an abused child or a neglected child; whether either parent, 413
in a case in which a child has been adjudicated an abused child or 414
a neglected child, previously has been determined to be the 415
perpetrator of the abusive or neglectful act that is the basis of 416
an adjudication; whether either parent or any member of the 417
household of either parent previously has been convicted of or 418
pleaded guilty to a violation of section 2919.25 of the Revised 419
Code or a sexually oriented offense involving a victim who at the 420
time of the commission of the offense was a member of the family 421
or household that is the subject of the current proceeding; 422
whether either parent or any member of the household of either 423
parent previously has been convicted of or pleaded guilty to any 424
offense involving a victim who at the time of the commission of 425
the offense was a member of the family or household that is the 426
subject of the current proceeding and caused physical harm to the 427
victim in the commission of the offense; and whether there is 428
reason to believe that either parent has acted in a manner 429
resulting in a child being an abused child or a neglected child; 430

(i) Whether the residential parent or one of the parents 431
subject to a shared parenting decree has continuously and 432
willfully denied the other parent's right to parenting time in 433
accordance with an order of the court; 434

(j) Whether either parent has established a residence, or is 435
planning to establish a residence, outside this state. 436

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

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

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

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

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

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

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

(G) Either parent or both parents of any children may file a pleading or motion with the court requesting the court to grant both parents shared parental rights and responsibilities for the care of the children in a proceeding held pursuant to division (A) of this section. If a pleading or motion requesting shared parenting is filed, the parent or parents filing the pleading or motion also shall file with the court a plan for the exercise of shared parenting by both parents. If each parent files a pleading or motion requesting shared parenting but only one parent files a plan or if only one parent files a pleading or motion requesting

shared parenting and also files a plan, the other parent as 468
ordered by the court shall file with the court a plan for the 469
exercise of shared parenting by both parents. The plan for shared 470
parenting shall be filed with the petition for dissolution of 471
marriage, if the question of parental rights and responsibilities 472
for the care of the children arises out of an action for 473
dissolution of marriage, or, in other cases, at a time at least 474
thirty days prior to the hearing on the issue of the parental 475
rights and responsibilities for the care of the children. A plan 476
for shared parenting shall include provisions covering all factors 477
that are relevant to the care of the children, including, but not 478
limited to, provisions covering factors such as physical living 479
arrangements, child support obligations, provision for the 480
children's medical and dental care, school placement, and the 481
parent with which the children will be physically located during 482
legal holidays, school holidays, and other days of special 483
importance. 484

(H) If an appeal is taken from a decision of a court that 485
grants or modifies a decree allocating parental rights and 486
responsibilities for the care of children, the court of appeals 487
shall give the case calendar priority and handle it expeditiously. 488

(I)(1) Upon receipt of an order ~~to~~ for active military 489
service in the uniformed services, a parent who is subject to an 490
order allocating parental rights and responsibilities or in 491
relation to whom an action to allocate parental rights and 492
responsibilities is pending and who is ordered ~~to~~ for active 493
military service shall notify the other parent who is subject to 494
the order or in relation to whom the case is pending of the order 495
~~to~~ for active military service within three days of receiving the 496
military service order. ~~Either~~ 497

(2) On receipt of the notice described in division (I)(1) of 498
this section, either parent may apply to the court for a hearing 499

to expedite an allocation or modification proceeding so that the 500
court can issue an order before the parent's active military 501
service begins. The application shall include the date on which 502
the active military service begins. 503

The court shall schedule a hearing upon receipt of the 504
application and hold the hearing not later than thirty days after 505
receipt of the application, except that the court shall give the 506
case calendar priority and handle the case expeditiously if 507
exigent circumstances exist in the case. 508

The court shall not modify a prior decree allocating parental 509
rights and responsibilities unless the court determines that there 510
has been a change in circumstances of the child, the child's 511
residential parent, or either of the parents subject to a shared 512
parenting decree, and that modification is necessary to serve the 513
best interest of the child. The court ~~may consider~~ shall not find 514
past, present, or possible future active military service in the 515
uniformed services ~~in determining whether to constitute~~ a change 516
in circumstances ~~exists under this section and shall~~ justifying 517
modification of a prior decree pursuant to division (E) of this 518
section. The court shall make specific written findings of fact to 519
support any modification under this division. 520

~~Upon application by either parent, the court may modify a~~ 521
~~prior decree allocating parental rights and responsibilities after~~ 522
~~the parent's active military service has been terminated, hearing~~ 523
~~testimony and making specific written findings of fact to support~~ 524
~~the modification.~~ 525

(3) Nothing in this division (I) of this section shall 526
prevent a court from issuing a temporary order allocating or 527
modifying parental rights and responsibilities for the duration of 528
the parent's active military service. A temporary order shall 529
specify whether the parent's active military service is the basis 530
of the order and shall provide for termination of the temporary 531

order and resumption of the prior order within ten days after 532
receipt of notice pursuant to division (I)(5) of this section, 533
unless the other parent demonstrates that resumption of the prior 534
order is not in the child's best interest. 535

(4) At the request of a parent who is ordered for active 536
military service in the uniformed services and who is a subject of 537
a proceeding pertaining to a temporary order for the allocation or 538
modification of parental rights and responsibilities, the court 539
shall permit the parent to participate in the proceeding and 540
present evidence by electronic means, including communication by 541
telephone, video, or internet. 542

(5) A parent who is ordered for active military service in 543
the uniformed services and who is a subject of a proceeding 544
pertaining to the allocation or modification of parental rights 545
and responsibilities shall provide written notice to the court and 546
the other parent of the date of termination of the parent's active 547
military service not later than thirty days after the date on 548
which the service ends. 549

(J) As used in this section: 550

(1) "Abused child" has the same meaning as in section 551
2151.031 of the Revised Code. 552

(2) "Active military service" means ~~the performance of active~~ 553
~~military duty~~ service by a member of the uniformed services ~~for a~~ 554
~~period of more than thirty days~~ in compliance with military orders 555
to report for combat operations, contingency operations, 556
peacekeeping operations, a remote tour of duty, or other active 557
service for which the member is required to report unaccompanied 558
by any family member, including any period of illness, recovery 559
from injury, leave, or other lawful absence during that operation, 560
duty, or service. 561

(3) "Neglected child" has the same meaning as in section 562

2151.03 of the Revised Code.	563
(4) "Sexually oriented offense" has the same meaning as in section 2950.01 of the Revised Code.	564 565
(5) "Uniformed services" means the <u>Ohio organized militia, the United States armed forces, army national guard and air national guard</u> when engaged in active duty for training or any reserve component thereof , or the commissioned corps of the United States public health service.	566 567 568 569 570
(K) As used in the Revised Code, "shared parenting" means that the parents share, in the manner set forth in the plan for shared parenting that is approved by the court under division (D)(1) and described in division (L)(6) of this section, all or some of the aspects of physical and legal care of their children.	571 572 573 574 575
(L) For purposes of the Revised Code:	576
(1) A parent who is granted the care, custody, and control of a child under an order that was issued pursuant to this section prior to April 11, 1991, and that does not provide for shared parenting has "custody of the child" and "care, custody, and control of the child" under the order, and is the "residential parent," the "residential parent and legal custodian," or the "custodial parent" of the child under the order.	577 578 579 580 581 582 583
(2) A parent who primarily is allocated the parental rights and responsibilities for the care of a child and who is designated as the residential parent and legal custodian of the child under an order that is issued pursuant to this section on or after April 11, 1991, and that does not provide for shared parenting has "custody of the child" and "care, custody, and control of the child" under the order, and is the "residential parent," the "residential parent and legal custodian," or the "custodial parent" of the child under the order.	584 585 586 587 588 589 590 591 592
(3) A parent who is not granted custody of a child under an	593

order that was issued pursuant to this section prior to April 11, 594
1991, and that does not provide for shared parenting is the 595
"parent who is not the residential parent," the "parent who is not 596
the residential parent and legal custodian," or the "noncustodial 597
parent" of the child under the order. 598

(4) A parent who is not primarily allocated the parental 599
rights and responsibilities for the care of a child and who is not 600
designated as the residential parent and legal custodian of the 601
child under an order that is issued pursuant to this section on or 602
after April 11, 1991, and that does not provide for shared 603
parenting is the "parent who is not the residential parent," the 604
"parent who is not the residential parent and legal custodian," or 605
the "noncustodial parent" of the child under the order. 606

(5) Unless the context clearly requires otherwise, if an 607
order is issued by a court pursuant to this section and the order 608
provides for shared parenting of a child, both parents have 609
"custody of the child" or "care, custody, and control of the 610
child" under the order, to the extent and in the manner specified 611
in the order. 612

(6) Unless the context clearly requires otherwise and except 613
as otherwise provided in the order, if an order is issued by a 614
court pursuant to this section and the order provides for shared 615
parenting of a child, each parent, regardless of where the child 616
is physically located or with whom the child is residing at a 617
particular point in time, as specified in the order, is the 618
"residential parent," the "residential parent and legal 619
custodian," or the "custodial parent" of the child. 620

(7) Unless the context clearly requires otherwise and except 621
as otherwise provided in the order, a designation in the order of 622
a parent as the residential parent for the purpose of determining 623
the school the child attends, as the custodial parent for purposes 624
of claiming the child as a dependent pursuant to section 152(e) of 625

the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 626
1, as amended, or as the residential parent for purposes of 627
receiving public assistance pursuant to division (A)(2) of this 628
section, does not affect the designation pursuant to division 629
(L)(6) of this section of each parent as the "residential parent," 630
the "residential parent and legal custodian," or the "custodial 631
parent" of the child. 632

(M) The court shall require each parent of a child to file an 633
affidavit attesting as to whether the parent, and the members of 634
the parent's household, have been convicted of or pleaded guilty 635
to any of the offenses identified in divisions (C) and (F)(1)(h) 636
of this section. 637

Sec. 3109.051. (A) If a divorce, dissolution, legal 638
separation, or annulment proceeding involves a child and if the 639
court has not issued a shared parenting decree, the court shall 640
consider any mediation report filed pursuant to section 3109.052 641
of the Revised Code and, in accordance with division (C) of this 642
section, shall make a just and reasonable order or decree 643
permitting each parent who is not the residential parent to have 644
parenting time with the child at the time and under the conditions 645
that the court directs, unless the court determines that it would 646
not be in the best interest of the child to permit that parent to 647
have parenting time with the child and includes in the journal its 648
findings of fact and conclusions of law. Whenever possible, the 649
order or decree permitting the parenting time shall ensure the 650
opportunity for both parents to have frequent and continuing 651
contact with the child, unless frequent and continuing contact by 652
either parent with the child would not be in the best interest of 653
the child. The court shall include in its final decree a specific 654
schedule of parenting time for that parent. Except as provided in 655
division (E)(6) of section 3113.31 of the Revised Code, if the 656
court, pursuant to this section, grants parenting time to a parent 657

or companionship or visitation rights to any other person with 658
respect to any child, it shall not require the public children 659
services agency to provide supervision of or other services 660
related to that parent's exercise of parenting time or that 661
person's exercise of companionship or visitation rights with 662
respect to the child. This section does not limit the power of a 663
juvenile court pursuant to Chapter 2151. of the Revised Code to 664
issue orders with respect to children who are alleged to be 665
abused, neglected, or dependent children or to make dispositions 666
of children who are adjudicated abused, neglected, or dependent 667
children or of a common pleas court to issue orders pursuant to 668
section 3113.31 of the Revised Code. 669

(B)(1) In a divorce, dissolution of marriage, legal 670
separation, annulment, or child support proceeding that involves a 671
child, the court may grant reasonable companionship or visitation 672
rights to any grandparent, any person related to the child by 673
consanguinity or affinity, or any other person other than a 674
parent, if all of the following apply: 675

(a) The grandparent, relative, or other person files a motion 676
with the court seeking companionship or visitation rights. 677

(b) The court determines that the grandparent, relative, or 678
other person has an interest in the welfare of the child. 679

(c) The court determines that the granting of the 680
companionship or visitation rights is in the best interest of the 681
child. 682

(2) A motion may be filed under division (B)(1) of this 683
section during the pendency of the divorce, dissolution of 684
marriage, legal separation, annulment, or child support proceeding 685
or, if a motion was not filed at that time or was filed at that 686
time and the circumstances in the case have changed, at any time 687
after a decree or final order is issued in the case. 688

(C) When determining whether to grant parenting time rights 689
to a parent pursuant to this section or section 3109.12 of the 690
Revised Code or to grant companionship or visitation rights to a 691
grandparent, relative, or other person pursuant to this section or 692
section 3109.11 or 3109.12 of the Revised Code, when establishing 693
a specific parenting time or visitation schedule, and when 694
determining other parenting time matters under this section or 695
section 3109.12 of the Revised Code or visitation matters under 696
this section or section 3109.11 or 3109.12 of the Revised Code, 697
the court shall consider any mediation report that is filed 698
pursuant to section 3109.052 of the Revised Code and shall 699
consider all other relevant factors, including, but not limited 700
to, all of the factors listed in division (D) of this section. In 701
considering the factors listed in division (D) of this section for 702
purposes of determining whether to grant parenting time or 703
visitation rights, establishing a specific parenting time or 704
visitation schedule, determining other parenting time matters 705
under this section or section 3109.12 of the Revised Code or 706
visitation matters under this section or under section 3109.11 or 707
3109.12 of the Revised Code, and resolving any issues related to 708
the making of any determination with respect to parenting time or 709
visitation rights or the establishment of any specific parenting 710
time or visitation schedule, the court, in its discretion, may 711
interview in chambers any or all involved children regarding their 712
wishes and concerns. If the court interviews any child concerning 713
the child's wishes and concerns regarding those parenting time or 714
visitation matters, the interview shall be conducted in chambers, 715
and no person other than the child, the child's attorney, the 716
judge, any necessary court personnel, and, in the judge's 717
discretion, the attorney of each parent shall be permitted to be 718
present in the chambers during the interview. No person shall 719
obtain or attempt to obtain from a child a written or recorded 720
statement or affidavit setting forth the wishes and concerns of 721

the child regarding those parenting time or visitation matters. A 722
court, in considering the factors listed in division (D) of this 723
section for purposes of determining whether to grant any parenting 724
time or visitation rights, establishing a parenting time or 725
visitation schedule, determining other parenting time matters 726
under this section or section 3109.12 of the Revised Code or 727
visitation matters under this section or under section 3109.11 or 728
3109.12 of the Revised Code, or resolving any issues related to 729
the making of any determination with respect to parenting time or 730
visitation rights or the establishment of any specific parenting 731
time or visitation schedule, shall not accept or consider a 732
written or recorded statement or affidavit that purports to set 733
forth the child's wishes or concerns regarding those parenting 734
time or visitation matters. 735

(D) In determining whether to grant parenting time to a 736
parent pursuant to this section or section 3109.12 of the Revised 737
Code or companionship or visitation rights to a grandparent, 738
relative, or other person pursuant to this section or section 739
3109.11 or 3109.12 of the Revised Code, in establishing a specific 740
parenting time or visitation schedule, and in determining other 741
parenting time matters under this section or section 3109.12 of 742
the Revised Code or visitation matters under this section or 743
section 3109.11 or 3109.12 of the Revised Code, the court shall 744
consider all of the following factors: 745

(1) The prior interaction and interrelationships of the child 746
with the child's parents, siblings, and other persons related by 747
consanguinity or affinity, and with the person who requested 748
companionship or visitation if that person is not a parent, 749
sibling, or relative of the child; 750

(2) The geographical location of the residence of each parent 751
and the distance between those residences, and if the person is 752
not a parent, the geographical location of that person's residence 753

and the distance between that person's residence and the child's residence;	754 755
(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;	756 757 758 759
(4) The age of the child;	760
(5) The child's adjustment to home, school, and community;	761
(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 wishes and concerns of the child, as expressed to the court;	762 763 764 765 766 767 768 769
(7) The health and safety of the child;	770
(8) The amount of time that will be available for the child to spend with siblings;	771 772
(9) The mental and physical health of all parties;	773
(10) Each parent's willingness to reschedule missed parenting time and to facilitate the other parent's parenting time rights, and with respect to a person who requested companionship or visitation, the willingness of that person to reschedule missed visitation;	774 775 776 777 778
(11) In relation to parenting time, whether either parent previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being an abused child or a neglected child; whether either parent, in a case in which a child has been adjudicated an abused child or a neglected	779 780 781 782 783

child, previously has been determined to be the perpetrator of the 784
abusive or neglectful act that is the basis of the adjudication; 785
and whether there is reason to believe that either parent has 786
acted in a manner resulting in a child being an abused child or a 787
neglected child; 788

(12) In relation to requested companionship or visitation by 789
a person other than a parent, whether the person previously has 790
been convicted of or pleaded guilty to any criminal offense 791
involving any act that resulted in a child being an abused child 792
or a neglected child; whether the person, in a case in which a 793
child has been adjudicated an abused child or a neglected child, 794
previously has been determined to be the perpetrator of the 795
abusive or neglectful act that is the basis of the adjudication; 796
whether either parent previously has been convicted of or pleaded 797
guilty to a violation of section 2919.25 of the Revised Code 798
involving a victim who at the time of the commission of the 799
offense was a member of the family or household that is the 800
subject of the current proceeding; whether either parent 801
previously has been convicted of an offense involving a victim who 802
at the time of the commission of the offense was a member of the 803
family or household that is the subject of the current proceeding 804
and caused physical harm to the victim in the commission of the 805
offense; and whether there is reason to believe that the person 806
has acted in a manner resulting in a child being an abused child 807
or a neglected child; 808

(13) Whether the residential parent or one of the parents 809
subject to a shared parenting decree has continuously and 810
willfully denied the other parent's right to parenting time in 811
accordance with an order of the court; 812

(14) Whether either parent has established a residence or is 813
planning to establish a residence outside this state; 814

(15) In relation to requested companionship or visitation by 815

a person other than a parent, the wishes and concerns of the 816
child's parents, as expressed by them to the court; 817

(16) Any other factor in the best interest of the child. 818

(E) The remarriage of a residential parent of a child does 819
not affect the authority of a court under this section to grant 820
parenting time rights with respect to the child to the parent who 821
is not the residential parent or to grant reasonable companionship 822
or visitation rights with respect to the child to any grandparent, 823
any person related by consanguinity or affinity, or any other 824
person. 825

(F)(1) If the court, pursuant to division (A) of this 826
section, denies parenting time to a parent who is not the 827
residential parent or denies a motion for reasonable companionship 828
or visitation rights filed under division (B) of this section and 829
the parent or movant files a written request for findings of fact 830
and conclusions of law, the court shall state in writing its 831
findings of fact and conclusions of law in accordance with Civil 832
Rule 52. 833

(2) On or before July 1, 1991, each court of common pleas, by 834
rule, shall adopt standard parenting time guidelines. A court 835
shall have discretion to deviate from its standard parenting time 836
guidelines based upon factors set forth in division (D) of this 837
section. 838

(G)(1) If the residential parent intends to move to a 839
residence other than the residence specified in the parenting time 840
order or decree of the court, the parent shall file a notice of 841
intent to relocate with the court that issued the order or decree. 842
Except as provided in divisions (G)(2), (3), and (4) of this 843
section, the court shall send a copy of the notice to the parent 844
who is not the residential parent. Upon receipt of the notice, the 845
court, on its own motion or the motion of the parent who is not 846

the residential parent, may schedule a hearing with notice to both 847
parents to determine whether it is in the best interest of the 848
child to revise the parenting time schedule for the child. 849

(2) When a court grants parenting time rights to a parent who 850
is not the residential parent, the court shall determine whether 851
that parent has been convicted of or pleaded guilty to a violation 852
of section 2919.25 of the Revised Code involving a victim who at 853
the time of the commission of the offense was a member of the 854
family or household that is the subject of the proceeding, has 855
been convicted of or pleaded guilty to any other offense involving 856
a victim who at the time of the commission of the offense was a 857
member of the family or household that is the subject of the 858
proceeding and caused physical harm to the victim in the 859
commission of the offense, or has been determined to be the 860
perpetrator of the abusive act that is the basis of an 861
adjudication that a child is an abused child. If the court 862
determines that that parent has not been so convicted and has not 863
been determined to be the perpetrator of an abusive act that is 864
the basis of a child abuse adjudication, the court shall issue an 865
order stating that a copy of any notice of relocation that is 866
filed with the court pursuant to division (G)(1) of this section 867
will be sent to the parent who is given the parenting time rights 868
in accordance with division (G)(1) of this section. 869

If the court determines that the parent who is granted the 870
parenting time rights has been convicted of or pleaded guilty to a 871
violation of section 2919.25 of the Revised Code involving a 872
victim who at the time of the commission of the offense was a 873
member of the family or household that is the subject of the 874
proceeding, has been convicted of or pleaded guilty to any other 875
offense involving a victim who at the time of the commission of 876
the offense was a member of the family or household that is the 877
subject of the proceeding and caused physical harm to the victim 878

in the commission of the offense, or has been determined to be the perpetrator of the abusive act that is the basis of an adjudication that a child is an abused child, it shall issue an order stating that that parent will not be given a copy of any notice of relocation that is filed with the court pursuant to division (G)(1) of this section unless the court determines that it is in the best interest of the children to give that parent a copy of the notice of relocation, issues an order stating that that parent will be given a copy of any notice of relocation filed pursuant to division (G)(1) of this section, and issues specific written findings of fact in support of its determination.

(3) If a court, prior to April 11, 1991, issued an order granting parenting time rights to a parent who is not the residential parent and did not require the residential parent in that order to give the parent who is granted the parenting time rights notice of any change of address and if the residential parent files a notice of relocation pursuant to division (G)(1) of this section, the court shall determine if the parent who is granted the parenting time rights has been convicted of or pleaded guilty to a violation of section 2919.25 of the Revised Code involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding, has been convicted of or pleaded guilty to any other offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding and caused physical harm to the victim in the commission of the offense, or has been determined to be the perpetrator of the abusive act that is the basis of an adjudication that a child is an abused child. If the court determines that the parent who is granted the parenting time rights has not been so convicted and has not been determined to be the perpetrator of an abusive act that is the basis of a child abuse adjudication, the court shall issue an order stating that a

copy of any notice of relocation that is filed with the court 912
pursuant to division (G)(1) of this section will be sent to the 913
parent who is granted parenting time rights in accordance with 914
division (G)(1) of this section. 915

If the court determines that the parent who is granted the 916
parenting time rights has been convicted of or pleaded guilty to a 917
violation of section 2919.25 of the Revised Code involving a 918
victim who at the time of the commission of the offense was a 919
member of the family or household that is the subject of the 920
proceeding, has been convicted of or pleaded guilty to any other 921
offense involving a victim who at the time of the commission of 922
the offense was a member of the family or household that is the 923
subject of the proceeding and caused physical harm to the victim 924
in the commission of the offense, or has been determined to be the 925
perpetrator of the abusive act that is the basis of an 926
adjudication that a child is an abused child, it shall issue an 927
order stating that that parent will not be given a copy of any 928
notice of relocation that is filed with the court pursuant to 929
division (G)(1) of this section unless the court determines that 930
it is in the best interest of the children to give that parent a 931
copy of the notice of relocation, issues an order stating that 932
that parent will be given a copy of any notice of relocation filed 933
pursuant to division (G)(1) of this section, and issues specific 934
written findings of fact in support of its determination. 935

(4) If a parent who is granted parenting time rights pursuant 936
to this section or any other section of the Revised Code is 937
authorized by an order issued pursuant to this section or any 938
other court order to receive a copy of any notice of relocation 939
that is filed pursuant to division (G)(1) of this section or 940
pursuant to court order, if the residential parent intends to move 941
to a residence other than the residence address specified in the 942
parenting time order, and if the residential parent does not want 943

the parent who is granted the parenting time rights to receive a 944
copy of the relocation notice because the parent with parenting 945
time rights has been convicted of or pleaded guilty to a violation 946
of section 2919.25 of the Revised Code involving a victim who at 947
the time of the commission of the offense was a member of the 948
family or household that is the subject of the proceeding, has 949
been convicted of or pleaded guilty to any other offense involving 950
a victim who at the time of the commission of the offense was a 951
member of the family or household that is the subject of the 952
proceeding and caused physical harm to the victim in the 953
commission of the offense, or has been determined to be the 954
perpetrator of the abusive act that is the basis of an 955
adjudication that a child is an abused child, the residential 956
parent may file a motion with the court requesting that the parent 957
who is granted the parenting time rights not receive a copy of any 958
notice of relocation. Upon the filing of the motion, the court 959
shall schedule a hearing on the motion and give both parents 960
notice of the date, time, and location of the hearing. If the 961
court determines that the parent who is granted the parenting time 962
rights has been so convicted or has been determined to be the 963
perpetrator of an abusive act that is the basis of a child abuse 964
adjudication, the court shall issue an order stating that the 965
parent who is granted the parenting time rights will not be given 966
a copy of any notice of relocation that is filed with the court 967
pursuant to division (G)(1) of this section or that the 968
residential parent is no longer required to give that parent a 969
copy of any notice of relocation unless the court determines that 970
it is in the best interest of the children to give that parent a 971
copy of the notice of relocation, issues an order stating that 972
that parent will be given a copy of any notice of relocation filed 973
pursuant to division (G)(1) of this section, and issues specific 974
written findings of fact in support of its determination. If it 975
does not so find, it shall dismiss the motion. 976

(H)(1) Subject to section 3125.16 and division (F) of section 977
3319.321 of the Revised Code, a parent of a child who is not the 978
residential parent of the child is entitled to access, under the 979
same terms and conditions under which access is provided to the 980
residential parent, to any record that is related to the child and 981
to which the residential parent of the child legally is provided 982
access, unless the court determines that it would not be in the 983
best interest of the child for the parent who is not the 984
residential parent to have access to the records under those same 985
terms and conditions. If the court determines that the parent of a 986
child who is not the residential parent should not have access to 987
records related to the child under the same terms and conditions 988
as provided for the residential parent, the court shall specify 989
the terms and conditions under which the parent who is not the 990
residential parent is to have access to those records, shall enter 991
its written findings of facts and opinion in the journal, and 992
shall issue an order containing the terms and conditions to both 993
the residential parent and the parent of the child who is not the 994
residential parent. The court shall include in every order issued 995
pursuant to this division notice that any keeper of a record who 996
knowingly fails to comply with the order or division (H) of this 997
section is in contempt of court. 998

(2) Subject to section 3125.16 and division (F) of section 999
3319.321 of the Revised Code, subsequent to the issuance of an 1000
order under division (H)(1) of this section, the keeper of any 1001
record that is related to a particular child and to which the 1002
residential parent legally is provided access shall permit the 1003
parent of the child who is not the residential parent to have 1004
access to the record under the same terms and conditions under 1005
which access is provided to the residential parent, unless the 1006
residential parent has presented the keeper of the record with a 1007
copy of an order issued under division (H)(1) of this section that 1008
limits the terms and conditions under which the parent who is not 1009

the residential parent is to have access to records pertaining to 1010
the child and the order pertains to the record in question. If the 1011
residential parent presents the keeper of the record with a copy 1012
of that type of order, the keeper of the record shall permit the 1013
parent who is not the residential parent to have access to the 1014
record only in accordance with the most recent order that has been 1015
issued pursuant to division (H)(1) of this section and presented 1016
to the keeper by the residential parent or the parent who is not 1017
the residential parent. Any keeper of any record who knowingly 1018
fails to comply with division (H) of this section or with any 1019
order issued pursuant to division (H)(1) of this section is in 1020
contempt of court. 1021

(3) The prosecuting attorney of any county may file a 1022
complaint with the court of common pleas of that county requesting 1023
the court to issue a protective order preventing the disclosure 1024
pursuant to division (H)(1) or (2) of this section of any 1025
confidential law enforcement investigatory record. The court shall 1026
schedule a hearing on the motion and give notice of the date, 1027
time, and location of the hearing to all parties. 1028

(I) A court that issues a parenting time order or decree 1029
pursuant to this section or section 3109.12 of the Revised Code 1030
shall determine whether the parent granted the right of parenting 1031
time is to be permitted access, in accordance with section 1032
5104.011 of the Revised Code, to any child day-care center that 1033
is, or that in the future may be, attended by the children with 1034
whom the right of parenting time is granted. Unless the court 1035
determines that the parent who is not the residential parent 1036
should not have access to the center to the same extent that the 1037
residential parent is granted access to the center, the parent who 1038
is not the residential parent and who is granted parenting time 1039
rights is entitled to access to the center to the same extent that 1040
the residential parent is granted access to the center. If the 1041

court determines that the parent who is not the residential parent 1042
should not have access to the center to the same extent that the 1043
residential parent is granted such access under division (C) of 1044
section 5104.011 of the Revised Code, the court shall specify the 1045
terms and conditions under which the parent who is not the 1046
residential parent is to have access to the center, provided that 1047
the access shall not be greater than the access that is provided 1048
to the residential parent under division (C) of section 5104.011 1049
of the Revised Code, the court shall enter its written findings of 1050
fact and opinions in the journal, and the court shall include the 1051
terms and conditions of access in the parenting time order or 1052
decree. 1053

(J)(1) Subject to division (F) of section 3319.321 of the 1054
Revised Code, when a court issues an order or decree allocating 1055
parental rights and responsibilities for the care of a child, the 1056
parent of the child who is not the residential parent of the child 1057
is entitled to access, under the same terms and conditions under 1058
which access is provided to the residential parent, to any student 1059
activity that is related to the child and to which the residential 1060
parent of the child legally is provided access, unless the court 1061
determines that it would not be in the best interest of the child 1062
to grant the parent who is not the residential parent access to 1063
the student activities under those same terms and conditions. If 1064
the court determines that the parent of the child who is not the 1065
residential parent should not have access to any student activity 1066
that is related to the child under the same terms and conditions 1067
as provided for the residential parent, the court shall specify 1068
the terms and conditions under which the parent who is not the 1069
residential parent is to have access to those student activities, 1070
shall enter its written findings of facts and opinion in the 1071
journal, and shall issue an order containing the terms and 1072
conditions to both the residential parent and the parent of the 1073
child who is not the residential parent. The court shall include 1074

in every order issued pursuant to this division notice that any 1075
school official or employee who knowingly fails to comply with the 1076
order or division (J) of this section is in contempt of court. 1077

(2) Subject to division (F) of section 3319.321 of the 1078
Revised Code, subsequent to the issuance of an order under 1079
division (J)(1) of this section, all school officials and 1080
employees shall permit the parent of the child who is not the 1081
residential parent to have access to any student activity under 1082
the same terms and conditions under which access is provided to 1083
the residential parent of the child, unless the residential parent 1084
has presented the school official or employee, the board of 1085
education of the school, or the governing body of the chartered 1086
nonpublic school with a copy of an order issued under division 1087
(J)(1) of this section that limits the terms and conditions under 1088
which the parent who is not the residential parent is to have 1089
access to student activities related to the child and the order 1090
pertains to the student activity in question. If the residential 1091
parent presents the school official or employee, the board of 1092
education of the school, or the governing body of the chartered 1093
nonpublic school with a copy of that type of order, the school 1094
official or employee shall permit the parent who is not the 1095
residential parent to have access to the student activity only in 1096
accordance with the most recent order that has been issued 1097
pursuant to division (J)(1) of this section and presented to the 1098
school official or employee, the board of education of the school, 1099
or the governing body of the chartered nonpublic school by the 1100
residential parent or the parent who is not the residential 1101
parent. Any school official or employee who knowingly fails to 1102
comply with division (J) of this section or with any order issued 1103
pursuant to division (J)(1) of this section is in contempt of 1104
court. 1105

(K) If any person is found in contempt of court for failing 1106

to comply with or interfering with any order or decree granting 1107
parenting time rights issued pursuant to this section or section 1108
3109.12 of the Revised Code or companionship or visitation rights 1109
issued pursuant to this section, section 3109.11 or 3109.12 of the 1110
Revised Code, or any other provision of the Revised Code, the 1111
court that makes the finding, in addition to any other penalty or 1112
remedy imposed, shall assess all court costs arising out of the 1113
contempt proceeding against the person and require the person to 1114
pay any reasonable attorney's fees of any adverse party, as 1115
determined by the court, that arose in relation to the act of 1116
contempt, and may award reasonable compensatory parenting time or 1117
visitation to the person whose right of parenting time or 1118
visitation was affected by the failure or interference if such 1119
compensatory parenting time or visitation is in the best interest 1120
of the child. Any compensatory parenting time or visitation 1121
awarded under this division shall be included in an order issued 1122
by the court and, to the extent possible, shall be governed by the 1123
same terms and conditions as was the parenting time or visitation 1124
that was affected by the failure or interference. 1125

(L) Any parent who requests reasonable parenting time rights 1126
with respect to a child under this section or section 3109.12 of 1127
the Revised Code or any person who requests reasonable 1128
companionship or visitation rights with respect to a child under 1129
this section, section 3109.11 or 3109.12 of the Revised Code, or 1130
any other provision of the Revised Code may file a motion with the 1131
court requesting that it waive all or any part of the costs that 1132
may accrue in the proceedings. If the court determines that the 1133
movant is indigent and that the waiver is in the best interest of 1134
the child, the court, in its discretion, may waive payment of all 1135
or any part of the costs of those proceedings. 1136

(M)(1) A parent who receives an order for active military 1137
service in the uniformed services and who is subject to a 1138

parenting time order may apply to the court for any of the 1139
following temporary orders for the period extending from the date 1140
of the parent's departure to the date of return: 1141

(a) An order delegating all or part of the parent's parenting 1142
time with the child to a relative or to another person who has a 1143
close and substantial relationship with the child if the 1144
delegation is in the child's best interest; 1145

(b) An order that the other parent make the child reasonably 1146
available for parenting time with the parent when the parent is on 1147
leave from active military service; 1148

(c) An order that the other parent facilitate contact, 1149
including telephone and electronic contact, between the parent and 1150
child while the parent is on active military service. 1151

(2)(a) Upon receipt of an order for active military service, 1152
a parent who is subject to a parenting time order and seeks and 1153
order under division (M)(1) of this section shall notify the other 1154
parent who is subject to the parenting time order and apply to the 1155
court as soon as reasonably possible after receipt of the order 1156
for active military service. The application shall include the 1157
date on which the active military service begins. 1158

(b) The court shall schedule a hearing upon receipt of an 1159
application under division (M) of this section and hold the 1160
hearing not later than thirty days after its receipt, except that 1161
the court shall give the case calendar priority and handle the 1162
case expeditiously if exigent circumstances exist in the case. 1163

(c) In determining whether a delegation under division 1164
(M)(1)(a) of this section is in the child's best interest, the 1165
court shall consider all relevant factors, including the factors 1166
set forth in division (D) of this section. 1167

(d) An order delegating all or part of the parent's parenting 1168
time pursuant to division (M)(1)(a) of this section does not 1169

create standing on behalf of the person to whom parenting time is 1170
delegated to assert visitation or companionship rights independent 1171
of the order. 1172

(3) At the request of a parent who is ordered for active 1173
military service in the uniformed services and who is a subject of 1174
a proceeding pertaining to a parenting time order or pertaining to 1175
a request for companionship rights or visitation with a child, the 1176
court shall permit the parent to participate in the proceeding and 1177
present evidence by electronic means, including communication by 1178
telephone, video, or internet. 1179

(N) The juvenile court has exclusive jurisdiction to enter 1180
the orders in any case certified to it from another court. 1181

~~(N)~~(O) As used in this section: 1182

(1) "Abused child" has the same meaning as in section 1183
2151.031 of the Revised Code, and "neglected child" has the same 1184
meaning as in section 2151.03 of the Revised Code. 1185

(2) "Active military service" and "uniformed services" have 1186
the same meanings as in section 3109.04 of the Revised Code. 1187

(3) "Confidential law enforcement investigatory record" has 1188
the same meaning as in section 149.43 of the Revised Code. 1189

(4) "Parenting time order" means an order establishing the 1190
amount of time that a child spends with the parent who is not the 1191
residential parent or the amount of time that the child is to be 1192
physically located with a parent under a shared parenting order. 1193

(5) "Record" means any record, document, file, or other 1194
material that contains information directly related to a child, 1195
including, but not limited to, any of the following: 1196

(a) Records maintained by public and nonpublic schools; 1197

(b) Records maintained by facilities that provide child care, 1198
as defined in section 5104.01 of the Revised Code, publicly funded 1199

child care, as defined in section 5104.01 of the Revised Code, or 1200
pre-school services operated by or under the supervision of a 1201
school district board of education or a nonpublic school; 1202

(c) Records maintained by hospitals, other facilities, or 1203
persons providing medical or surgical care or treatment for the 1204
child; 1205

(d) Records maintained by agencies, departments, 1206
instrumentalities, or other entities of the state or any political 1207
subdivision of the state, other than a child support enforcement 1208
agency. Access to records maintained by a child support 1209
enforcement agency is governed by section 3125.16 of the Revised 1210
Code. 1211

~~(3) "Confidential law enforcement investigatory record" has 1212
the same meaning as in section 149.43 of the Revised Code. 1213~~

Section 2. That existing sections 3109.04 and 3109.051 of the 1214
Revised Code are hereby repealed. 1215