

As Introduced

**129th General Assembly
Regular Session
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S. B. No. 144

Senators Skindell, Grendell

—

A BILL

To amend sections 3105.65, 3109.03, 3109.04, 1
3109.041, 3109.043, 3109.051, 3109.09, 3109.56, 2
3119.022, 3119.24, 3313.98, and 5120.653 of the 3
Revised Code to ensure that court orders and 4
decrees that allocate parental rights and 5
responsibilities with respect to the care of and 6
access to children provide for equality between 7
the parents except where clear and convincing 8
evidence shows that equal legal and physical 9
access would be harmful to the children. 10

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

Section 1. That sections 3105.65, 3109.03, 3109.04, 3109.041, 11
3109.043, 3109.051, 3109.09, 3109.56, 3119.022, 3119.24, 3313.98, 12
and 5120.653 be amended to read as follows: 13

Sec. 3105.65. (A) If, at the time of the hearing, either 14
spouse is not satisfied with the separation agreement or does not 15
wish a dissolution of the marriage and if neither spouse files a 16
motion pursuant to division (C) of this section to convert the 17
action to an action for divorce, the court shall dismiss the 18
petition and refuse to validate the proposed separation agreement. 19

(B) If, upon review of the testimony of both spouses and of 20

the report of the investigator pursuant to the Rules of Civil Procedure, the court approves the separation agreement and any amendments to it agreed upon by the parties, it shall grant a decree of dissolution of marriage that incorporates the separation agreement. If the separation agreement contains a plan for the exercise of ~~shared parenting~~ equal legal and physical access by the spouses, the court shall review the plan in accordance with the provisions of division (D)(1) of section 3109.04 of the Revised Code that govern the review of a pleading or motion requesting ~~shared parenting~~ equal legal and physical access jointly submitted by both spouses to a marriage. A decree of dissolution of marriage has the same effect upon the property rights of the parties, including rights of dower and inheritance, as a decree of divorce. The court has full power to enforce its decree and retains jurisdiction to modify all matters pertaining to the allocation of parental rights and responsibilities for the care of the children, to the designation of a residential parent and legal custodian of the children, to child support, to parenting time of parents with the children, and to visitation for persons who are not the children's parents. The court, only in accordance with division (E)(2) of section 3105.18 of the Revised Code, may modify the amount or terms of spousal support. The court may modify the division of property provided in the separation agreement only upon the express written consent or agreement of both spouses.

(C) At any time before a decree of dissolution of marriage has been granted under division (B) of this section, either spouse may convert the action for dissolution of marriage into a divorce action by filing a motion with the court in which the action for dissolution of marriage is pending for conversion of the action for dissolution of marriage. The motion shall contain a complaint for divorce that contains grounds for a divorce and that otherwise complies with the Rules of Civil Procedure and this chapter. The

divorce action then shall proceed in accordance with the Rules of 54
Civil Procedure in the same manner as if the motion had been the 55
original complaint in the action, including, but not limited to, 56
the issuance and service of summons pursuant to Civil Rules 4 to 57
4.6, except that no court fees shall be charged upon conversion of 58
the action for dissolution of marriage into a divorce action under 59
this division. 60

Sec. 3109.03. When husband and wife are living separate and 61
apart from each other, or are divorced, and the question as to the 62
parental rights and responsibilities for the care of their 63
children and the place of residence and legal custodian of their 64
children is brought before a court of competent jurisdiction, they 65
shall stand upon an equality as to the parental rights and 66
responsibilities for the care of their children and the place of 67
residence and legal custodian of their children, so far as 68
parenthood is involved. 69

Except as otherwise provided in section 3109.04 of the 70
Revised Code, in making at any stage of a proceeding any order or 71
decree that allocates parental rights and responsibilities 72
regarding the care of and access to the children of the parents, a 73
court shall grant equal legal and physical access to the parents 74
unless it finds by clear and convincing evidence that equal legal 75
and physical access would be harmful to the children. Whenever a 76
court makes an order or decree that does not provide for equal 77
legal and physical access, it shall explain in writing the reasons 78
for its determination. 79

Sec. 3109.04. (A) In any divorce, legal separation, or 80
annulment proceeding and in any proceeding pertaining to the 81
allocation of parental rights and responsibilities for the care of 82
a child, upon hearing the testimony of either or both parents and 83
considering any mediation report filed pursuant to section 84

3109.052 of the Revised Code and in accordance with sections 85
3127.01 to 3127.53 of the Revised Code, the court shall allocate 86
the parental rights and responsibilities for the care of the minor 87
children of the marriage. ~~Subject to in accordance with division 88
(D)(2) of this section, the court may allocate the parental rights 89
and responsibilities for the care of the children in either of the 90
following ways:~~ 91

~~(1) If neither parent files a pleading or motion in 92
accordance with division (C) of this section, if at least one 93
parent files a pleading or motion under that division but no 94
parent who filed a pleading or motion under that division also 95
files a plan for shared parenting, or if at least one parent files 96
both a pleading or motion and a shared parenting plan under that 97
division but no plan for shared parenting is in the best interest 98
of the children, the court, in a manner consistent with the best 99
interest of the children, shall allocate the parental rights and 100
responsibilities for the care of the children primarily to one of 101
the parents, designate that parent as the residential parent and 102
the legal custodian of the child, and divide between the parents 103
the other rights and responsibilities for the care of the 104
children, including, but not limited to, the responsibility to 105
provide support for the children and the right of the parent who 106
is not the residential parent to have continuing contact with the 107
children.~~ 108

~~(2) If at least one parent files a pleading or motion in 109
accordance with division (C) of this section and a plan for shared 110
parenting pursuant to that division and if a plan for shared 111
parenting is in the best interest of the children and is approved 112
by the court in accordance with division (D)(1) of this section, 113
the court may allocate the parental rights and responsibilities 114
for the care of the children to both parents and issue a shared 115
parenting order requiring the parents to share all or some of the 116~~

~~aspects of the physical and legal care of the children in 117
accordance with the approved plan for shared parenting. If 118~~

If the court issues a shared parenting an order for equal 119
legal and physical access under this ~~division~~ section and it is 120
necessary for the purpose of receiving public assistance, the 121
court shall designate which one of the parents' residences is to 122
serve as the child's home. This designation shall be for the sole 123
purpose of receiving public assistance and shall not affect the 124
designation under division (K)(6) of this section of each parent 125
as the "residential parent," the "residential parent and legal 126
custodian," or the "custodial parent" of the child. The child 127
support obligations of the parents under a shared parenting an 128
order for equal legal and physical access issued under this 129
~~division~~ section shall be determined in accordance with Chapters 130
3119., 3121., 3123., and 3125. of the Revised Code and shall grant 131
appropriate child support deviations to account for equal legal 132
and physical access as provided in section 3119.24 of the Revised 133
Code. 134

(B)(1) When making the allocation of the parental rights and 135
responsibilities for the care of the children under this section 136
in an original proceeding or in any proceeding for modification of 137
a prior order of the court ~~making the allocation, the court shall 138
take into account that which would be in the best interest of the 139
children. In determining the child's best interest for purposes of 140
making its allocation of the parental rights and responsibilities 141
for the care of the child and for purposes of resolving any issues 142
related to the making of that allocation, the court, in its 143
discretion, may and, upon the request of either party, shall 144
interview in chambers any or all of the involved children 145
regarding their wishes and concerns with respect to the 146
allocation. 147~~

(2) If the court interviews any child pursuant to division 148

(B)(1) of this section, all of the following apply: 149

(a) The court, ~~in its discretion, may and,~~ upon the written 150
motion of either parent, ~~shall~~ may appoint a guardian ad litem for 151
the child. If the court appoints a guardian ad litem, the court 152
shall order that the costs of the guardian ad litem be divided 153
equally between the parties. 154

(b) The court first shall determine the reasoning ability of 155
the child. If the court determines that the child does not have 156
sufficient reasoning ability to express the child's wishes and 157
concern with respect to the allocation of parental rights and 158
responsibilities for the care of the child, it shall not determine 159
the child's wishes and concerns with respect to the allocation. If 160
the court determines that the child has sufficient reasoning 161
ability to express the child's wishes or concerns with respect to 162
the allocation, it then shall determine whether, ~~because of~~ 163
~~special circumstances, it would not be in the best interest of the~~ 164
~~child to determine the child's wishes and concerns with respect to~~ 165
~~the allocation~~ exist. If the court determines that, because of 166
special circumstances, it would ~~not be in the best interest of the~~ 167
~~child to determine the child's wishes and concerns with respect to~~ 168
~~the allocation, it shall not determine the child's wishes and~~ 169
~~concerns with respect to the allocation and shall enter its~~ 170
~~written findings of fact and opinion in the journal. If the court~~ 171
~~determines that it would~~ be in the best interests of the child to 172
determine the child's wishes and concerns with respect to the 173
allocation, it shall proceed to make that determination. 174

(c) The interview shall be conducted in chambers, and no 175
person other than the child, the child's attorney, the judge, any 176
necessary court personnel, and, in the judge's discretion, the 177
attorney of each parent shall be permitted to be present in the 178
chambers during the interview. 179

(3) No person shall obtain or attempt to obtain from a child 180

a written or recorded statement or affidavit setting forth the child's wishes and concerns regarding the allocation of parental rights and responsibilities concerning the child. No court, 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 or for purposes of resolving any issues related to the making of that allocation, shall accept or consider a written or recorded statement or affidavit that purports to set forth the child's wishes and concerns regarding those matters.

(C) Prior to trial, the court may cause an investigation to be made as to the character, family relations, past conduct, earning ability, and financial worth of each parent ~~and may order the parents and their minor children to. If either party files a written motion requesting that the parties~~ submit to medical, psychological, and psychiatric examinations, the court, in its discretion, may order the examinations to be conducted and may divide the costs of the examinations equally between the parties or tax the costs to the moving party. The report of the investigation and examinations shall be made available to either parent or the parent's counsel of record not less than ~~five~~ fifteen days before trial, ~~upon written request.~~ The report shall be signed by the investigator, and the investigator shall be subject to cross-examination by either parent concerning the contents of the report. The court may tax as costs all or any part of the expenses for each investigation. An investigator shall conduct any investigation independent of the court.

If the court determines that either parent previously has been convicted of or pleaded guilty to any criminal offense involving any act that resulted in a child being a neglected child, that either parent previously has been determined to be the perpetrator of the neglectful act that is the basis of an adjudication that a child is a neglected child, or that there is

reason to believe that either parent has acted in a manner 213
resulting in a child being a neglected child, the court shall 214
consider that fact against naming that parent the residential 215
parent and against granting ~~a shared parenting~~ an equal legal and 216
physical access decree. When the court allocates parental rights 217
and responsibilities for the care of children or determines 218
whether to grant ~~shared parenting~~ equal legal and physical access 219
in any proceeding, it shall consider whether either parent or any 220
member of the household of either parent has been convicted of or 221
pleaded guilty to a violation of section 2919.25 of the Revised 222
Code or a sexually oriented offense involving a victim who at the 223
time of the commission of the offense was a member of the family 224
or household that is the subject of the proceeding, has been 225
convicted of or pleaded guilty to any sexually oriented offense or 226
other offense involving a victim who at the time of the commission 227
of the offense was a member of the family or household that is the 228
subject of the proceeding and caused physical harm to the victim 229
in the commission of the offense, or has been determined to be the 230
perpetrator of the abusive act that is the basis of an 231
adjudication that a child is an abused child. If the court 232
determines that either parent has been convicted of or pleaded 233
guilty to a violation of section 2919.25 of the Revised Code or a 234
sexually oriented offense involving a victim who at the time of 235
the commission of the offense was a member of the family or 236
household that is the subject of the proceeding, has been 237
convicted of or pleaded guilty to any sexually oriented offense or 238
other offense involving a victim who at the time of the commission 239
of the offense was a member of the family or household that is the 240
subject of the proceeding and caused physical harm to the victim 241
in the commission of the offense, or has been determined to be the 242
perpetrator of the abusive act that is the basis of an 243
adjudication that a child is an abused child, it may designate 244
that parent as the residential parent and may issue ~~a shared~~ 245

~~parenting an equal legal and physical access~~ decree or order only 246
if it determines that it is in the best interest of the child to 247
name that parent the residential parent or to issue a ~~shared~~ 248
~~parenting an equal legal and physical access~~ decree or order and 249
it makes specific written findings of fact to support its 250
determination. 251

~~(D)(1)(a) Upon the filing of a pleading or motion by either~~ 252
~~parent or both parents, in accordance with division (G) of this~~ 253
~~section, requesting shared parenting and the filing of a shared~~ 254
~~parenting plan in accordance with that division, the~~ The court 255
shall ~~comply with division (D)(1)(a)(i), (ii), or (iii) of this~~ 256
~~section, whichever is applicable~~ allocate parental rights and 257
responsibilities as follows: 258

(i) ~~If, under division (G) of this section,~~ both parents 259
jointly ~~make the request~~ equal legal and physical access in their 260
pleadings or jointly file ~~the~~ a motion for equal legal and 261
physical access and also jointly file ~~the~~ a plan for equal legal 262
and physical access, the court shall ~~review the parents' plan to~~ 263
~~determine if it is in the best interest of the children. If the~~ 264
~~court determines that the plan is in the best interest of the~~ 265
~~children, the court shall approve it. If the court determines that~~ 266
~~the plan or any part of the plan is not in the best interest of~~ 267
~~the children, the court shall require the parents to make~~ 268
~~appropriate changes to the plan to meet the court's objections to~~ 269
~~it. If changes to the plan are made to meet the court's~~ 270
~~objections, and if the new plan is in the best interest of the~~ 271
~~children, the court shall approve the plan. If changes to the plan~~ 272
~~are not made to meet the court's objections, or if the parents~~ 273
~~attempt to make changes to the plan to meet the court's~~ 274
~~objections, but the court determines that the new plan or any part~~ 275
~~of the new plan still is not in the best interest of the children,~~ 276
~~the court may reject the portion of the parents' pleadings or deny~~ 277

~~their motion requesting shared parenting of the children and~~ 278
~~proceed as if the request in the pleadings or the motion had not~~ 279
~~been made. The court shall not approve a plan under this division~~ 280
~~unless it determines that the plan is in the best interest of the~~ 281
~~children~~ approve the plan. If the court, prior to approving the 282
plan, finds by clear and convincing evidence that equal legal and 283
physical access would be harmful to the children, the court shall 284
proceed in accordance with division (D)(1)(a)(v) of this section. 285
If the court approves the plan or rejects the plan and proceeds in 286
accordance with division (D)(1)(a)(v) of this section, the court 287
shall enter in the record of the case findings of fact and 288
conclusions of law as to the reasons for the approval or rejection 289
of the plan. 290

(ii) If, under division (G) of this section, each parent 291
makes a request in the parent's pleadings or files a motion and 292
each also files a separate plan, the court shall review each plan 293
~~filed to determine if either is in the best interest of the~~ 294
~~children.~~ If the court determines that one of the filed plans ~~is~~ 295
~~in the best interest of the children~~ provides for more equality 296
with regard to the rights and responsibilities for the care of and 297
access to the children, the court may shall approve the that plan. 298
If the court determines that neither filed plan ~~is in the best~~ 299
~~interest of the children~~ provides equal legal and physical access, 300
the court may order each parent to submit appropriate changes to 301
the parent's plan or both of the filed plans to meet the court's 302
objections, or may select one of the filed plans and order each 303
parent to submit appropriate changes to the selected plan to meet 304
the court's objections. If changes to the plan or plans are 305
submitted to meet the court's objections, and if any of the filed 306
plans with the changes ~~is in the best interest of~~ provides for 307
equal legal and physical access to the children, the court may 308
shall approve the that plan with the changes. ~~If changes to the~~ 309
~~plan or plans are not submitted to meet the court's objections, or~~ 310

~~if the parents submit changes to the plan or plans to meet the court's objections but the court determines that none of the filed plans with the submitted changes is in the best interest of the children, the court may reject the portion of the parents' pleadings or deny their motions requesting shared parenting of the children and proceed as if the requests in the pleadings or the motions had not been made~~ If the court, prior to approving the plan, finds by clear and convincing evidence that equal legal and physical access would be harmful to the children, the court shall proceed in accordance with division (D)(1)(a)(v) of this section.
~~if~~

If the court approves a plan under this division, either as originally filed or with submitted changes, or if the court rejects the portion of the parents' pleadings or denies their motions requesting ~~shared parenting~~ equal legal and physical access under ~~this~~ division (D)(1)(a)(ii) of this section and proceeds as ~~if the requests in the pleadings or the motions had not been made~~ in accordance with division (D)(1)(a)(v) of this section, the court shall enter in the record of the case findings of fact and conclusions of law as to the reasons for the approval or the rejection or denial. Division (D)(1)(b) of this section applies in relation to the approval or disapproval of a plan under this division.

(iii) If, under division (G) of this section, each parent makes a request for equal legal and physical access in the parent's pleadings or files a motion for equal legal and physical access but only one parent files a plan for equal legal and physical access, ~~or if only one parent makes a request in the parent's pleadings or files a motion and also files a plan,~~ the court ~~in the best interest of the children~~ may order the other parent to file a plan for ~~shared parenting~~ equal legal and physical access in accordance with division (G) of this section.

The court shall review each plan filed ~~to determine if any plan is~~ 343
~~in the best interest of the children.~~ If the court determines that 344
~~one of the filed plans is in the best interest of the children~~ 345
provides for more equality with regard to the rights and 346
responsibilities for the care of and access to the children, the 347
court ~~may~~ shall approve the plan. If the court determines that no 348
filed plan ~~is in the best interest of the children~~ provides for 349
equal legal and physical access, the court may order each parent 350
to submit appropriate changes to the parent's plan or both of the 351
filed plans to meet the court's objections or may select one filed 352
plan and order each parent to submit appropriate changes to the 353
selected plan to meet the court's objections. If changes to the 354
plan or plans are submitted to meet the court's objections, and if 355
any of the filed plans with the changes ~~is in the best interest of~~ 356
~~the children~~ provides for equal legal and physical access, the 357
court ~~may~~ shall approve the plan with the changes. If ~~changes to~~ 358
~~the plan or plans are not submitted to meet the court's~~ 359
~~objections, or if the parents submit changes to the plan or plans~~ 360
~~to meet the court's objections but the court determines that none~~ 361
~~of the filed plans with the submitted changes is in the best~~ 362
~~interest of the children, the court may reject the portion of the~~ 363
~~parents' pleadings or deny the parents' motion or reject the~~ 364
~~portion of the parents' pleadings or deny their motions requesting~~ 365
~~shared parenting of the children and proceed as if the request or~~ 366
~~requests or the motion or motions had not been made~~ the court, 367
prior to approving the plan, finds by clear and convincing 368
evidence that equal legal and physical access would be harmful to 369
the children, the court shall proceed in accordance with division 370
(D)(1)(a)(v) of this section. ~~If~~ 371

If the court approves a plan under this division, either as 372
originally filed or with submitted changes, or if the court 373
rejects the portion of the pleadings or denies the motion or 374
motions requesting ~~shared parenting~~ equal legal and physical 375

access under this division (D)(1)(a)(iii) of this section and 376
proceeds as if the request or requests or the motion or motions 377
had not been made in accordance with division (D)(1)(a)(v) of this 378
section, the court shall enter in the record of the case findings 379
of fact and conclusions of law as to the reasons for the approval 380
or the rejection or denial. Division (D)(1)(b) of this section 381
applies in relation to the approval or disapproval of a plan under 382
this division. 383

(iv) If only one parent files a pleading or motion in 384
accordance with division (G) of this section and a plan for equal 385
legal and physical access, the court shall approve the plan unless 386
the court determines that the plan does not provide for equal 387
legal and physical access. If the court determines that the plan 388
does not provide for equal legal and physical access, the court 389
may order the parent to submit appropriate changes to the plan to 390
meet the court's objections. If changes to the plan are submitted 391
to meet the court's objections and if the filed plan with changes 392
provides for equal legal and physical access, the court shall 393
approve the plan with the changes. If the court prior to approving 394
the plan finds by clear and convincing evidence that equal legal 395
and physical access would be harmful to the children, the court 396
shall proceed in accordance with division (D)(1)(a)(v) of this 397
section. 398

If the court approves the plan under this division either as 399
originally filed or with submitted changes or if the court rejects 400
the portion of the pleadings or denies the motion or motions 401
requesting equal legal and physical access under division 402
(D)(1)(a)(iv) of this section and proceeds in accordance with 403
division (D)(1)(a)(v) of this section, the court shall enter in 404
the record of the case findings of fact and conclusions of law as 405
to the reasons for the approval or the rejection or denial. 406
Division (D)(1)(b) of this section applies to the approval or 407

disapproval of a plan under this division. 408

(v) If neither parent files a pleading or motion in 409
accordance with division (G) of this section or if the court finds 410
by clear and convincing evidence that equal legal and physical 411
access would be harmful to the children, the court shall allocate 412
parental rights and responsibilities in a manner consistent with 413
the best interests of the children. 414

The court shall enter into the record all findings of fact 415
and conclusions of law related to the allocation of parental 416
rights and responsibilities under division (D)(1)(a)(v) of this 417
section. 418

~~(b) The approval of a plan under division (D)(1)(a)(ii) or~~ 419
~~(iii) of this section is discretionary with the court. The court~~ 420
~~shall not approve more than one plan under either division and~~ 421
~~shall not approve a plan under either division unless it~~ 422
~~determines that the plan is in the best interest of the children.~~ 423
~~If the court, under either division, does not determine that any~~ 424
~~filed plan or any filed plan with submitted changes is in the best~~ 425
~~interest of the children, the court shall not approve any plan~~ 426
~~(D)(1)(a)(ii) or (iii) of this section.~~ 427

~~(c) Whenever possible, the~~ The court shall require that a 428
~~shared parenting plan for equal legal and physical access~~ approved 429
under division (D)(1)(a)(i), (ii), ~~or (iii), or (iv)~~ of this 430
section ensure ~~the opportunity for both parents to have frequent~~ 431
~~and continuing contact with the child, unless frequent and~~ 432
~~continuing contact with any parent would not be in the best~~ 433
~~interest of the child, to the greatest extent possible, that~~ 434
parental rights and responsibilities for the care of and access to 435
the children are allocated to the parents on an equal basis. 436

(d) If a court approves a ~~shared parenting plan for equal~~ 437
legal and physical access under division (D)(1)(a)(i), (ii), ~~or~~ 438

(iii), ~~or (iv)~~ of this section, the approved plan shall be 439
incorporated into a final ~~shared parenting~~ equal legal and 440
physical access decree granting the parents ~~the shared parenting~~ 441
~~of equal legal and physical access to~~ the children. Any final 442
~~shared parenting~~ equal legal and physical access decree shall be 443
issued at the same time as and shall be appended to the final 444
decree of dissolution, divorce, annulment, or legal separation 445
arising out of the action out of which the question of the 446
allocation of parental rights and responsibilities for the care of 447
the children arose. 448

~~No provisional shared parenting decree shall be issued in~~ 449
~~relation to any shared parenting plan approved under division~~ 450
~~(D)(1)(a)(i), (ii), or (iii) of this section. A final shared~~ 451
~~parenting decree issued under this division has immediate effect~~ 452
~~as a final decree on the date of its issuance, subject to~~ 453
~~modification or termination as authorized by this section.~~ 454

(2) If the court finds by clear and convincing evidence, with 455
respect to any child under eighteen years of age, that it is in 456
the best interest of the child for neither parent to be designated 457
the residential parent and legal custodian of the child, it may 458
temporarily commit the child to a relative of the child ~~or~~ and 459
shall certify a copy of its findings, together with as much of the 460
record and the further information, in narrative form or 461
otherwise, that it considers necessary or as the juvenile court 462
requests, to the juvenile court for further proceedings, and, upon 463
the certification, the juvenile court has exclusive jurisdiction. 464

(E)(1)(a) The court shall not modify a prior decree 465
allocating parental rights and responsibilities for the care of 466
children unless it finds, based on facts that have arisen since 467
the prior decree or that were unknown to the court at the time of 468
the prior decree, that a substantial change has occurred in the 469
circumstances of the child, ~~the child's residential parent,~~ or 470

either of the parents ~~subject to a shared parenting decree,~~ and 471
that the modification is necessary to serve the best interest of 472
the child. ~~In applying these standards, the court shall retain the~~ 473
~~residential parent designated by the prior decree or the prior~~ 474
~~shared parenting decree, unless a modification is in the best~~ 475
~~interest of the child and one of the following applies:~~ 476

~~(i) The residential parent agrees to a change in the 477
residential parent or both parents under a shared parenting decree 478
agree to a change in the designation of residential parent. 479~~

~~(ii) The child, with the consent of the residential parent or 480
of both parents under a shared parenting decree, has been 481
integrated into the family of the person seeking to become the 482
residential parent. 483~~

~~(iii) The harm likely to be caused by a change of environment 484
is outweighed by the advantages of the change of environment to 485
the child. 486~~

(b) One or both of the parents under a prior decree 487
allocating parental rights and responsibilities for the care of 488
children that is not ~~a shared parenting~~ an equal legal and 489
physical access decree may file a motion requesting that the prior 490
decree be modified to give both parents ~~shared rights and~~ 491
~~responsibilities for the care of~~ equal legal and physical access 492
to the children. The motion shall include both a request for 493
modification of the prior decree and a request for ~~a shared~~ 494
~~parenting~~ an order for equal legal and physical access that 495
complies with division (G) of this section. Upon the filing of the 496
motion, if the court determines that a modification of the prior 497
decree is authorized under division (E)(1)(a) of this section, the 498
court may modify the prior decree to grant ~~a shared parenting~~ an 499
order for equal legal and physical access, provided that the court 500
shall not modify the prior decree to grant ~~a shared parenting~~ an 501
order for equal legal and physical access unless the court 502

complies with divisions (A) and (D)(1) of this section and, in 503
accordance with those divisions, approves the submitted ~~shared~~ 504
~~parenting~~ plan for equal legal and physical access and determines 505
that ~~shared parenting~~ equal legal and physical access would be in 506
the best interest of the children. 507

(c) If the court allocates parental rights and 508
responsibilities for the care of and access to the children under 509
division (E)(1) of this section in an unequal manner on the 510
grounds that one of the parents is unsuitable for equal legal and 511
physical access, the court shall create a plan to allow that 512
parent to eliminate the reasons for the unsuitability. When the 513
unsuitable parent removes the grounds for the finding of 514
unsuitability, the court, upon a motion by that parent, shall 515
modify its order or decree to provide for equal legal and physical 516
access. 517

(2) In addition to a modification authorized under division 518
(E)(1) of this section: 519

(a) Both parents under a ~~shared parenting~~ an equal legal and 520
physical access decree jointly may modify the terms of the plan 521
for ~~shared parenting~~ equal legal and physical access approved by 522
the court and incorporated by it into the ~~shared parenting~~ equal 523
legal and physical access decree. Modifications under this 524
division may be made at any time. The modifications to the plan 525
shall be filed jointly by both parents with the court, and the 526
court shall include them in the plan, unless they are not in the 527
best interest of the children. If the modifications are not in the 528
best interests of the children, the court, in its discretion, may 529
reject the modifications or make modifications to the proposed 530
modifications or the plan that are in the best interest of the 531
children. Modifications jointly submitted by both parents under a 532
~~shared parenting~~ an equal legal and physical access decree shall 533
be effective, either as originally filed or as modified by the 534

court, upon their inclusion by the court in the plan. 535

Modifications to the plan made by the court shall be effective 536

upon their inclusion by the court in the plan. 537

(b) The court may modify the terms of the plan for ~~shared~~ 538

~~parenting~~ equal legal and physical access approved by the court 539

and incorporated by it into the ~~shared parenting~~ equal legal and 540

physical access decree upon ~~its own~~ a motion by one or both of the 541

parents at any time if the court determines that the modifications 542

are in the best interest of the children ~~or upon the request of~~ 543

~~one or both of the parents under the decree~~. Modifications under 544

this division may be made at any time. The court shall not make 545

any modification to the plan under this division, unless the 546

modification is in the best interest of the children. 547

(c) The court may terminate a prior final ~~shared parenting~~ 548

equal legal and physical access decree that includes a ~~shared~~ 549

~~parenting~~ plan for equal legal and physical access approved under 550

division (D)(1)(a)(i) of this section upon the request of one or 551

both of the parents or whenever it determines by clear and 552

convincing evidence that ~~shared parenting~~ equal legal and physical 553

access is not in the best interest of the children. The court may 554

terminate a prior final ~~shared parenting~~ equal legal and physical 555

access decree that includes a ~~shared parenting~~ plan for equal 556

legal and physical access approved under division (D)(1)(a)(ii) or 557

(iii) of this section if it determines, ~~upon its own motion or~~ 558

upon the request of one or both parents, that ~~shared parenting~~ 559

equal legal and physical access is not in the best interest of the 560

children. If modification of the terms of the plan for ~~shared~~ 561

~~parenting~~ equal legal and physical access approved by the court 562

and incorporated by it into the final ~~shared parenting~~ equal legal 563

and physical access decree is attempted under division (E)(2)(a) 564

of this section and the court rejects the modifications, it may 565

terminate the final ~~shared parenting~~ equal legal and physical 566

access decree if it determines that ~~shared parenting~~ equal legal 567
and physical access is not in the best interest of the children. 568

(d) Upon the termination of a prior final ~~shared parenting~~ 569
equal legal and physical access decree under division (E)(2)(c) of 570
this section, the court shall proceed and issue a modified decree 571
for the allocation of parental rights and responsibilities for the 572
care of the children under the standards applicable under 573
~~divisions (A), (B), and (C)~~ of this section as if no decree for 574
~~shared parenting~~ equal legal and physical access had been granted 575
and as if no request for ~~shared parenting~~ equal legal and physical 576
access ever had been made. 577

(e) If the court allocates parental rights and 578
responsibilities for the care of and access to the children under 579
division (E)(2) of this section in an unequal manner on the 580
grounds that one of the parents is unsuitable for equal legal and 581
physical access, and that parent removes the grounds for the 582
finding of unsuitability, the court, upon a motion by that parent, 583
shall modify its order or decree to provide for equal legal and 584
physical access. 585

(F)(1) In all determinations concerning the allocation of 586
parental rights and responsibilities for the care of and access to 587
children, there shall be a presumption that an equal allocation 588
between the parents of rights and responsibilities for the care of 589
and access to the children is in the best interest of the 590
children. In the absence of clear and convincing evidence that an 591
equal allocation would be harmful to the children, the court shall 592
allocate parental rights and responsibilities for the care of and 593
access to the children in a way that is equal. In determining the 594
best interest of a child pursuant to this section when there is 595
clear and convincing evidence that an equal allocation would be 596
harmful to the children, whether on an original decree allocating 597
parental rights and responsibilities for the care of children or a 598

modification of a decree allocating those rights and 599
responsibilities, the court shall consider all relevant factors, 600
including, but not limited to: 601

(a) The wishes of the child's parents regarding the child's 602
care; 603

(b) If the court has interviewed the child in chambers 604
pursuant to division (B) of this section regarding the child's 605
wishes and concerns as to the allocation of parental rights and 606
responsibilities concerning the child, the wishes and concerns of 607
the child, as expressed to the court; 608

(c) The child's interaction and interrelationship with the 609
child's parents, siblings, and any other person who may 610
significantly affect the child's best interest; 611

(d) The child's adjustment to the child's home, school, and 612
community; 613

(e) The mental and physical health of all persons involved in 614
the situation; 615

(f) The parent more likely to honor and facilitate 616
court-approved parenting time rights or visitation and 617
companionship rights; 618

(g) Whether either parent has failed to make all child 619
support payments, including all arrearages, that are required of 620
that parent pursuant to a child support order under which that 621
parent is an obligor and whether that parent had the ability to 622
pay the support ordered; 623

(h) Whether either parent or any member of the household of 624
either parent previously has been convicted of or pleaded guilty 625
to any criminal offense involving any act that resulted in a child 626
being an abused child or a neglected child; whether either parent, 627
in a case in which a child has been adjudicated an abused child or 628

a neglected child, previously has been determined to be the 629
perpetrator of the abusive or neglectful act that is the basis of 630
an adjudication; whether either parent or any member of the 631
household of either parent previously has been convicted of or 632
pleaded guilty to a violation of section 2919.25 of the Revised 633
Code or a sexually oriented offense involving a victim who at the 634
time of the commission of the offense was a member of the family 635
or household that is the subject of the current proceeding; 636
whether either parent or any member of the household of either 637
parent previously has been convicted of or pleaded guilty to any 638
offense involving a victim who at the time of the commission of 639
the offense was a member of the family or household that is the 640
subject of the current proceeding and caused physical harm to the 641
victim in the commission of the offense; and whether there is 642
reason to believe that either parent has acted in a manner 643
resulting in a child being an abused child or a neglected child; 644

(i) Whether the residential parent or one of the parents 645
subject to ~~a shared parenting~~ an equal legal and physical access 646
decree has continuously and willfully denied the other parent's 647
right to parenting time in accordance with an order of the court; 648

(j) Whether either parent has established a residence, or is 649
planning to establish a residence, outside this state. 650

(2) In determining whether ~~shared parenting~~ equal legal and 651
physical access is in the best interest of the children, the court 652
shall consider all relevant factors, including, but not limited 653
to, the factors enumerated in division (F)(1) of this section, the 654
factors enumerated in section 3119.23 of the Revised Code, and all 655
of the following factors: 656

(a) The ability of the parents to cooperate and make 657
decisions jointly, with respect to the children; 658

(b) The ability of each parent to encourage the sharing of 659

love, affection, and contact between the child and the other 660
parent; 661

(c) Any clear and convincing evidence of a history of, ~~or~~ 662
~~potential for,~~ child abuse, spouse abuse, other domestic violence, 663
or parental kidnapping by either parent; 664

(d) The geographic proximity of the parents to each other, as 665
the proximity relates to the practical considerations of ~~shared~~ 666
~~parenting~~ equal legal and physical access; 667

(e) The recommendation of the guardian ad litem of the child, 668
if the child has a guardian ad litem. 669

(3) When allocating parental rights and responsibilities for 670
the care of children, the court shall not give preference to a 671
parent because of that parent's financial status or condition. 672

(G) Either parent or both parents of any children may file a 673
pleading or motion with the court requesting the court to grant 674
both parents ~~shared parental rights and responsibilities for the~~ 675
~~care of~~ equal legal and physical access to the children in a 676
proceeding held pursuant to division (A) of this section. If a 677
pleading or motion requesting ~~shared parenting~~ equal legal and 678
physical access is filed, the parent or parents filing the 679
pleading or motion also shall file with the court a plan for ~~the~~ 680
~~exercise of shared parenting~~ equal legal and physical access by 681
both parents. If each parent files a pleading or motion requesting 682
~~shared parenting~~ equal legal and physical access but only one 683
parent files a plan or if only one parent files a pleading or 684
motion requesting ~~shared parenting~~ equal legal and physical access 685
and also files a plan, the other parent as ordered by the court 686
shall file with the court a plan for ~~the exercise of shared~~ 687
~~parenting~~ equal legal and physical access by both parents. The 688
plan for ~~shared parenting~~ equal legal and physical access shall be 689
filed with the petition for dissolution of marriage, if the 690

question of parental rights and responsibilities for the care of 691
the children arises out of an action for dissolution of marriage, 692
or, in other cases, at a time at least thirty days prior to the 693
hearing on the issue of the parental rights and responsibilities 694
for the care of the children. A plan for ~~shared parenting~~ equal 695
legal and physical access shall include provisions covering all 696
factors that are relevant to the care of the children, including, 697
but not limited to, provisions covering factors such as physical 698
living arrangements, child support obligations, provision for the 699
children's medical and dental care, school placement, and the 700
parent with which the children will be physically located during 701
legal holidays, school holidays, and other days of special 702
importance. 703

(H) If an appeal is taken from a decision of a court that 704
grants or modifies a decree allocating parental rights and 705
responsibilities for the care of children, the court of appeals 706
shall give the case calendar priority and handle it expeditiously. 707

(I) Upon receipt of an order to active military service in 708
the uniformed services, a parent who is subject to an order 709
allocating parental rights and responsibilities or in relation to 710
whom an action to allocate parental rights and responsibilities is 711
pending and who is ordered to active military service shall notify 712
the other parent who is subject to the order or in relation to 713
whom the case is pending of the order to active military service 714
within three days of receiving the military service order. Either 715
parent may apply to the court for a hearing to expedite an 716
allocation or modification proceeding. The application shall 717
include the date on which the active military service begins. 718

The court shall schedule a hearing upon receipt of the 719
application and hold the hearing not later than thirty days after 720
receipt of the application, except that the court shall give the 721
case calendar priority and handle the case expeditiously if 722

exigent circumstances exist in the case. 723

The court shall not modify a prior decree allocating parental 724
rights and responsibilities unless the court determines that there 725
has been a change in circumstances of the child, the child's 726
residential parent, or either of the parents subject to a ~~shared~~ 727
~~parenting~~ an equal legal and physical access decree, and that 728
modification is necessary to serve the best interest of the child. 729
The court may consider active military service in the uniformed 730
services in determining whether a change in circumstances exists 731
under this section and shall make specific written findings of 732
fact to support any modification under this division. 733

Upon application by either parent, the court may modify a 734
prior decree allocating parental rights and responsibilities after 735
the parent's active military service has been terminated, hearing 736
testimony and making specific written findings of fact to support 737
the modification. 738

Nothing in this division shall prevent a court from issuing a 739
temporary order allocating or modifying parental rights and 740
responsibilities for the duration of the parent's active military 741
service. 742

(J) As used in this section: 743

(1) "Abused child" has the same meaning as in section 744
2151.031 of the Revised Code. 745

(2) "Active military service" means the performance of active 746
military duty by a member of the uniformed services for a period 747
of more than thirty days. 748

(3) "Neglected child" has the same meaning as in section 749
2151.03 of the Revised Code. 750

(4) "Sexually oriented offense" has the same meaning as in 751
section 2950.01 of the Revised Code. 752

(5) "Uniformed services" means the United States armed 753
forces, army national guard and air national guard when engaged in 754
active duty for training, or the commissioned corps of the United 755
States public health service. 756

(K) As used in the Revised Code, "~~shared parenting~~ equal 757
legal and physical access" means that the parents share equally in 758
the legal and physical custody of the children, in the manner set 759
forth in the plan for ~~shared parenting~~ equal legal and physical 760
access that is approved by the court under division (D)(1) and 761
described in division (L)(6) of this section, ~~all or some of the~~ 762
~~aspects of physical and legal care of their children.~~ 763

(L) For purposes of the Revised Code: 764

(1) A parent who is granted the care, custody, and control of 765
a child under an order that was issued pursuant to this section 766
prior to April 11, 1991, and that does not provide for ~~shared~~ 767
~~parenting~~ equal legal and physical access has "custody of the 768
child" and "care, custody, and control of the child" under the 769
order, and is the "residential parent," the "residential parent 770
and legal custodian," or the "custodial parent" of the child under 771
the order. 772

(2) A parent who primarily is allocated the parental rights 773
and responsibilities for the care of a child and who is designated 774
as the residential parent and legal custodian of the child under 775
an order that is issued pursuant to this section on or after April 776
11, 1991, and that does not provide for ~~shared parenting~~ equal 777
legal and physical access has "custody of the child" and "care, 778
custody, and control of the child" under the order, and is the 779
"residential parent," the "residential parent and legal 780
custodian," or the "custodial parent" of the child under the 781
order. 782

(3) A parent who is not granted custody of a child under an 783

order that was issued pursuant to this section prior to April 11, 784
1991, and that does not provide for ~~shared parenting~~ equal legal 785
and physical access is the "parent who is not the residential 786
parent," the "parent who is not the residential parent and legal 787
custodian," or the "noncustodial parent" of the child under the 788
order. 789

(4) A parent who is not primarily allocated the parental 790
rights and responsibilities for the care of a child and who is not 791
designated as the residential parent and legal custodian of the 792
child under an order that is issued pursuant to this section on or 793
after April 11, 1991, and that does not provide for ~~shared~~ 794
~~parenting~~ equal legal and physical access is the "parent who is 795
not the residential parent," the "parent who is not the 796
residential parent and legal custodian," or the "noncustodial 797
parent" of the child under the order. 798

(5) Unless the context clearly requires otherwise, if an 799
order is issued by a court pursuant to this section and the order 800
provides for ~~shared parenting of~~ equal legal and physical access 801
to a child, both parents have "equal custody of the child" or 802
"equal care, custody, and control of the child" under the order, 803
to the extent and in the manner specified in the order. 804

(6) Unless the context clearly requires otherwise and except 805
as otherwise provided in the order, if an order is issued by a 806
court pursuant to this section and the order provides for ~~shared~~ 807
~~parenting of~~ equal legal and physical access to a child, each 808
parent, regardless of where the child is physically located or 809
with whom the child is residing at a particular point in time, as 810
specified in the order, is the "residential parent," the 811
"residential parent and legal custodian," or the "custodial 812
parent" of the child. 813

(7) Unless the context clearly requires otherwise and except 814
as otherwise provided in the order, a designation in the order of 815

a parent as the residential parent for the purpose of determining 816
the school the child attends, as the custodial parent for purposes 817
of claiming the child as a dependent pursuant to section 152(e) of 818
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 819
1, as amended, or as the residential parent for purposes of 820
receiving public assistance pursuant to division (A)(2) of this 821
section, does not affect the designation pursuant to division 822
(L)(6) of this section of each parent as the "residential parent," 823
the "residential parent and legal custodian," or the "custodial 824
parent" of the child. 825

(M) The court shall require each parent of a child to file an 826
affidavit attesting as to whether the parent, and the members of 827
the parent's household, have been convicted of or pleaded guilty 828
to any of the offenses identified in divisions (C) and (F)(1)(h) 829
of this section. 830

Sec. 3109.041. (A) Parties to any custody decree issued 831
pursuant to section 3109.04 of the Revised Code prior to ~~April 11,~~ 832
~~1991,~~ the effective date of this amendment may file a motion with 833
the court that issued the decree requesting the issuance of a 834
~~shared parenting~~ an equal legal and physical access decree in 835
accordance with division (G) of section 3109.04 of the Revised 836
Code. Upon the filing of the motion, the court shall determine 837
whether to grant the parents ~~shared~~ equal rights and 838
responsibilities for the care of the children in accordance with 839
~~divisions (A), (D)(1), (E)(1), and (I)~~ of section 3109.04 of the 840
Revised Code. 841

(B) A custody decree issued pursuant to section 3109.04 of 842
the Revised Code prior to ~~April 11, 1991,~~ the effective date of 843
this amendment that granted joint care, custody, and control of 844
the children to the parents or granted shared parenting shall not 845
be affected or invalidated by, and shall not be construed as being 846

affected or invalidated by, the provisions of section 3109.04 of 847
the Revised Code ~~relative~~ related to the granting of ~~a shared~~ 848
~~parenting~~ an equal legal and physical access decree or a decree 849
allocating parental rights and responsibilities for the care of 850
children on and after ~~April 11, 1991~~ the effective date of this 851
amendment. The decree issued prior to ~~April 11, 1991~~ the effective 852
date of this amendment shall remain in full force and effect, 853
subject to modification or termination pursuant to section 3109.04 854
of the Revised Code as that section exists on and after ~~April 11,~~ 855
~~1991~~ the effective date of this amendment. 856

(C) As used in this section, "joint custody," ~~and~~ "joint 857
care, custody, and control," and "shared parenting" have the same 858
meaning as "~~shared parenting~~ equal legal and physical access." 859

Sec. 3109.043. In any proceeding pertaining to the allocation 860
of parental rights and responsibilities for the care of a child, 861
when requested in the complaint, answer, or counterclaim, or by 862
motion served with the pleading, ~~upon satisfactory proof by~~ 863
~~affidavit~~ duly filed with the clerk of the court, the court, 864
~~without oral hearing and for good cause shown, may~~ shall make a 865
temporary order regarding the allocation of parental rights and 866
responsibilities for the care of the child while the action is 867
pending. When determining the temporary allocation of parental 868
rights and responsibilities, there is a presumption that equal 869
parenting is in the best interest of the children, and the court 870
shall set parenting time as equally as possible for both parents 871
unless clear and convincing evidence can be presented as to the 872
unfitness of either parent or the parents have agreed to an 873
alternate schedule. 874

If a parent and child relationship has not already been 875
established pursuant to section 3111.02 of the Revised Code, the 876
court ~~may~~ shall take into consideration when determining ~~whether~~ 877

~~to award parenting time, visitation rights, or temporary custody~~ 878
~~to~~ for a putative father ~~that~~ whether the putative father is named 879
on the birth record of the child, the child has the putative 880
father's surname, or a clear pattern of a parent and child 881
relationship between the child and the putative father exists. The 882
putative father shall stand as an equal to the mother in all 883
custody determinations unless clear and convincing evidence can be 884
presented as to the unfitness of either parent. 885

Sec. 3109.051. (A) If a divorce, dissolution, legal 886
separation, or annulment proceeding involves a child and if the 887
court has not issued ~~a shared parenting~~ an equal legal and 888
physical access decree, the court shall consider any mediation 889
report filed pursuant to section 3109.052 of the Revised Code and, 890
in accordance with division (C) of this section, shall make a just 891
and reasonable order or decree permitting each parent who is not 892
the residential parent to have parenting time with the child at 893
the time and under the conditions that the court directs, unless 894
the court determines that it would not be in the best interest of 895
the child to permit that parent to have parenting time with the 896
child and includes in the journal its findings of fact and 897
conclusions of law. Whenever possible, the order or decree 898
permitting the parenting time shall ensure the opportunity for 899
both parents to have frequent and continuing contact with the 900
child, unless frequent and continuing contact by either parent 901
with the child would not be in the best interest of the child. The 902
court shall include in its final decree a specific schedule of 903
parenting time for that parent. Except as provided in division 904
(E)(6) of section 3113.31 of the Revised Code, if the court, 905
pursuant to this section, grants parenting time to a parent or 906
companionship or visitation rights to any other person with 907
respect to any child, it shall not require the public children 908
services agency to provide supervision of or other services 909

related to that parent's exercise of parenting time or that 910
person's exercise of companionship or visitation rights with 911
respect to the child. This section does not limit the power of a 912
juvenile court pursuant to Chapter 2151. of the Revised Code to 913
issue orders with respect to children who are alleged to be 914
abused, neglected, or dependent children or to make dispositions 915
of children who are adjudicated abused, neglected, or dependent 916
children or of a common pleas court to issue orders pursuant to 917
section 3113.31 of the Revised Code. 918

(B)(1) In a divorce, dissolution of marriage, legal 919
separation, annulment, or child support proceeding that involves a 920
child, the court may grant reasonable companionship or visitation 921
rights to any grandparent, any person related to the child by 922
consanguinity or affinity, or any other person other than a 923
parent, if all of the following apply: 924

(a) The grandparent, relative, or other person files a motion 925
with the court seeking companionship or visitation rights. 926

(b) The court determines that the grandparent, relative, or 927
other person has an interest in the welfare of the child. 928

(c) The court determines that the granting of the 929
companionship or visitation rights is in the best interest of the 930
child. 931

(2) A motion may be filed under division (B)(1) of this 932
section during the pendency of the divorce, dissolution of 933
marriage, legal separation, annulment, or child support proceeding 934
or, if a motion was not filed at that time or was filed at that 935
time and the circumstances in the case have changed, at any time 936
after a decree or final order is issued in the case. 937

(C) When determining whether to grant parenting time rights 938
to a parent pursuant to this section or section 3109.12 of the 939

Revised Code or to grant companionship or visitation rights to a 940
grandparent, relative, or other person pursuant to this section or 941
section 3109.11 or 3109.12 of the Revised Code, when establishing 942
a specific parenting time or visitation schedule, and when 943
determining other parenting time matters under this section or 944
section 3109.12 of the Revised Code or visitation matters under 945
this section or section 3109.11 or 3109.12 of the Revised Code, 946
the court shall consider any mediation report that is filed 947
pursuant to section 3109.052 of the Revised Code and shall 948
consider all other relevant factors, including, but not limited 949
to, all of the factors listed in division (D) of this section. In 950
considering the factors listed in division (D) of this section for 951
purposes of determining whether to grant parenting time or 952
visitation rights, establishing a specific parenting time or 953
visitation schedule, determining other parenting time matters 954
under this section or section 3109.12 of the Revised Code or 955
visitation matters under this section or under section 3109.11 or 956
3109.12 of the Revised Code, and resolving any issues related to 957
the making of any determination with respect to parenting time or 958
visitation rights or the establishment of any specific parenting 959
time or visitation schedule, the court, in its discretion, may 960
interview in chambers any or all involved children regarding their 961
wishes and concerns. If the court interviews any child concerning 962
the child's wishes and concerns regarding those parenting time or 963
visitation matters, the interview shall be conducted in chambers, 964
and no person other than the child, the child's attorney, the 965
judge, any necessary court personnel, and, in the judge's 966
discretion, the attorney of each parent shall be permitted to be 967
present in the chambers during the interview. No person shall 968
obtain or attempt to obtain from a child a written or recorded 969
statement or affidavit setting forth the wishes and concerns of 970
the child regarding those parenting time or visitation matters. A 971
court, in considering the factors listed in division (D) of this 972

section for purposes of determining whether to grant any parenting 973
time or visitation rights, establishing a parenting time or 974
visitation schedule, determining other parenting time matters 975
under this section or section 3109.12 of the Revised Code or 976
visitation matters under this section or under section 3109.11 or 977
3109.12 of the Revised Code, or resolving any issues related to 978
the making of any determination with respect to parenting time or 979
visitation rights or the establishment of any specific parenting 980
time or visitation schedule, shall not accept or consider a 981
written or recorded statement or affidavit that purports to set 982
forth the child's wishes or concerns regarding those parenting 983
time or visitation matters. 984

(D) In determining whether to grant parenting time to a 985
parent pursuant to this section or section 3109.12 of the Revised 986
Code or companionship or visitation rights to a grandparent, 987
relative, or other person pursuant to this section or section 988
3109.11 or 3109.12 of the Revised Code, in establishing a specific 989
parenting time or visitation schedule, and in determining other 990
parenting time matters under this section or section 3109.12 of 991
the Revised Code or visitation matters under this section or 992
section 3109.11 or 3109.12 of the Revised Code, the court shall 993
consider all of the following factors: 994

(1) The prior interaction and interrelationships of the child 995
with the child's parents, siblings, and other persons related by 996
consanguinity or affinity, and with the person who requested 997
companionship or visitation if that person is not a parent, 998
sibling, or relative of the child; 999

(2) The geographical location of the residence of each parent 1000
and the distance between those residences, and if the person is 1001
not a parent, the geographical location of that person's residence 1002
and the distance between that person's residence and the child's 1003
residence; 1004

(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;	1005 1006 1007 1008
(4) The age of the child;	1009
(5) The child's adjustment to home, school, and community;	1010
(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;	1011 1012 1013 1014 1015 1016 1017 1018
(7) The health and safety of the child;	1019
(8) The amount of time that will be available for the child to spend with siblings;	1020 1021
(9) The mental and physical health of all parties;	1022
(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;	1023 1024 1025 1026 1027
(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 child, previously has been determined to be the perpetrator of the abusive or neglectful act that is the basis of the adjudication;	1028 1029 1030 1031 1032 1033 1034

and whether there is reason to believe that either parent has 1035
acted in a manner resulting in a child being an abused child or a 1036
neglected child; 1037

(12) In relation to requested companionship or visitation by 1038
a person other than a parent, whether the person previously has 1039
been convicted of or pleaded guilty to any criminal offense 1040
involving any act that resulted in a child being an abused child 1041
or a neglected child; whether the person, in a case in which a 1042
child has been adjudicated an abused child or a neglected child, 1043
previously has been determined to be the perpetrator of the 1044
abusive or neglectful act that is the basis of the adjudication; 1045
whether either parent previously has been convicted of or pleaded 1046
guilty to a violation of section 2919.25 of the Revised Code 1047
involving a victim who at the time of the commission of the 1048
offense was a member of the family or household that is the 1049
subject of the current proceeding; whether either parent 1050
previously has been convicted of an offense involving a victim who 1051
at the time of the commission of the offense was a member of the 1052
family or household that is the subject of the current proceeding 1053
and caused physical harm to the victim in the commission of the 1054
offense; and whether there is reason to believe that the person 1055
has acted in a manner resulting in a child being an abused child 1056
or a neglected child; 1057

(13) Whether the residential parent or one of the parents 1058
subject to ~~a shared parenting~~ an equal legal and physical access 1059
decree has continuously and willfully denied the other parent's 1060
right to parenting time in accordance with an order of the court; 1061

(14) Whether either parent has established a residence or is 1062
planning to establish a residence outside this state; 1063

(15) In relation to requested companionship or visitation by 1064
a person other than a parent, the wishes and concerns of the 1065
child's parents, as expressed by them to the court; 1066

(16) Any other factor in the best interest of the child. 1067

(E) The remarriage of a residential parent of a child does 1068
not affect the authority of a court under this section to grant 1069
parenting time rights with respect to the child to the parent who 1070
is not the residential parent or to grant reasonable companionship 1071
or visitation rights with respect to the child to any grandparent, 1072
any person related by consanguinity or affinity, or any other 1073
person. 1074

(F)(1) If the court, pursuant to division (A) of this 1075
section, denies parenting time to a parent who is not the 1076
residential parent or denies a motion for reasonable companionship 1077
or visitation rights filed under division (B) of this section and 1078
the parent or movant files a written request for findings of fact 1079
and conclusions of law, the court shall state in writing its 1080
findings of fact and conclusions of law in accordance with Civil 1081
Rule 52. 1082

(2) On or before July 1, 1991, each court of common pleas, by 1083
rule, shall adopt standard parenting time guidelines. A court 1084
shall have discretion to deviate from its standard parenting time 1085
guidelines based upon factors set forth in division (D) of this 1086
section. 1087

(G)(1) If the residential parent intends to move to a 1088
residence other than the residence specified in the parenting time 1089
order or decree of the court, the parent shall file a notice of 1090
intent to relocate with the court that issued the order or decree. 1091
Except as provided in divisions (G)(2), (3), and (4) of this 1092
section, the court shall send a copy of the notice to the parent 1093
who is not the residential parent. Upon receipt of the notice, the 1094
court, on its own motion or the motion of the parent who is not 1095
the residential parent, may schedule a hearing with notice to both 1096
parents to determine whether it is in the best interest of the 1097
child to revise the parenting time schedule for the child. 1098

(2) When a court grants parenting time rights to a parent who is not the residential parent, the court shall determine whether that parent 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 that parent 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 pursuant to division (G)(1) of this section will be sent to the parent who is given the parenting time rights in accordance with division (G)(1) of this section.

If the court determines that 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, 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 1132
division (G)(1) of this section unless the court determines that 1133
it is in the best interest of the children to give that parent a 1134
copy of the notice of relocation, issues an order stating that 1135
that parent will be given a copy of any notice of relocation filed 1136
pursuant to division (G)(1) of this section, and issues specific 1137
written findings of fact in support of its determination. 1138

(3) If a court, prior to April 11, 1991, issued an order 1139
granting parenting time rights to a parent who is not the 1140
residential parent and did not require the residential parent in 1141
that order to give the parent who is granted the parenting time 1142
rights notice of any change of address and if the residential 1143
parent files a notice of relocation pursuant to division (G)(1) of 1144
this section, the court shall determine if the parent who is 1145
granted the parenting time rights has been convicted of or pleaded 1146
guilty to a violation of section 2919.25 of the Revised Code 1147
involving a victim who at the time of the commission of the 1148
offense was a member of the family or household that is the 1149
subject of the proceeding, has been convicted of or pleaded guilty 1150
to any other offense involving a victim who at the time of the 1151
commission of the offense was a member of the family or household 1152
that is the subject of the proceeding and caused physical harm to 1153
the victim in the commission of the offense, or has been 1154
determined to be the perpetrator of the abusive act that is the 1155
basis of an adjudication that a child is an abused child. If the 1156
court determines that the parent who is granted the parenting time 1157
rights has not been so convicted and has not been determined to be 1158
the perpetrator of an abusive act that is the basis of a child 1159
abuse adjudication, the court shall issue an order stating that a 1160
copy of any notice of relocation that is filed with the court 1161
pursuant to division (G)(1) of this section will be sent to the 1162
parent who is granted parenting time rights in accordance with 1163
division (G)(1) of this section. 1164

If the court determines that 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, 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.

(4) If a parent who is granted parenting time rights pursuant to this section or any other section of the Revised Code is authorized by an order issued pursuant to this section or any other court order to receive a copy of any notice of relocation that is filed pursuant to division (G)(1) of this section or pursuant to court order, if the residential parent intends to move to a residence other than the residence address specified in the parenting time order, and if the residential parent does not want the parent who is granted the parenting time rights to receive a copy of the relocation notice because the parent with 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 1198
been convicted of or pleaded guilty to any other offense involving 1199
a victim who at the time of the commission of the offense was a 1200
member of the family or household that is the subject of the 1201
proceeding and caused physical harm to the victim in the 1202
commission of the offense, or has been determined to be the 1203
perpetrator of the abusive act that is the basis of an 1204
adjudication that a child is an abused child, the residential 1205
parent may file a motion with the court requesting that the parent 1206
who is granted the parenting time rights not receive a copy of any 1207
notice of relocation. Upon the filing of the motion, the court 1208
shall schedule a hearing on the motion and give both parents 1209
notice of the date, time, and location of the hearing. If the 1210
court determines that the parent who is granted the parenting time 1211
rights has been so convicted or has been determined to be the 1212
perpetrator of an abusive act that is the basis of a child abuse 1213
adjudication, the court shall issue an order stating that the 1214
parent who is granted the parenting time rights will not be given 1215
a copy of any notice of relocation that is filed with the court 1216
pursuant to division (G)(1) of this section or that the 1217
residential parent is no longer required to give that parent a 1218
copy of any notice of relocation unless the court determines that 1219
it is in the best interest of the children to give that parent a 1220
copy of the notice of relocation, issues an order stating that 1221
that parent will be given a copy of any notice of relocation filed 1222
pursuant to division (G)(1) of this section, and issues specific 1223
written findings of fact in support of its determination. If it 1224
does not so find, it shall dismiss the motion. 1225

(H)(1) Subject to section 3125.16 and division (F) of section 1226
3319.321 of the Revised Code, a parent of a child who is not the 1227
residential parent of the child is entitled to access, under the 1228
same terms and conditions under which access is provided to the 1229
residential parent, to any record that is related to the child and 1230

to which the residential parent of the child legally is provided 1231
access, unless the court determines that it would not be in the 1232
best interest of the child for the parent who is not the 1233
residential parent to have access to the records under those same 1234
terms and conditions. If the court determines that the parent of a 1235
child who is not the residential parent should not have access to 1236
records related to the child under the same terms and conditions 1237
as provided for the residential parent, the court shall specify 1238
the terms and conditions under which the parent who is not the 1239
residential parent is to have access to those records, shall enter 1240
its written findings of facts and opinion in the journal, and 1241
shall issue an order containing the terms and conditions to both 1242
the residential parent and the parent of the child who is not the 1243
residential parent. The court shall include in every order issued 1244
pursuant to this division notice that any keeper of a record who 1245
knowingly fails to comply with the order or division (H) of this 1246
section is in contempt of court. 1247

(2) Subject to section 3125.16 and division (F) of section 1248
3319.321 of the Revised Code, subsequent to the issuance of an 1249
order under division (H)(1) of this section, the keeper of any 1250
record that is related to a particular child and to which the 1251
residential parent legally is provided access shall permit the 1252
parent of the child who is not the residential parent to have 1253
access to the record under the same terms and conditions under 1254
which access is provided to the residential parent, unless the 1255
residential parent has presented the keeper of the record with a 1256
copy of an order issued under division (H)(1) of this section that 1257
limits the terms and conditions under which the parent who is not 1258
the residential parent is to have access to records pertaining to 1259
the child and the order pertains to the record in question. If the 1260
residential parent presents the keeper of the record with a copy 1261
of that type of order, the keeper of the record shall permit the 1262
parent who is not the residential parent to have access to the 1263

record only in accordance with the most recent order that has been 1264
issued pursuant to division (H)(1) of this section and presented 1265
to the keeper by the residential parent or the parent who is not 1266
the residential parent. Any keeper of any record who knowingly 1267
fails to comply with division (H) of this section or with any 1268
order issued pursuant to division (H)(1) of this section is in 1269
contempt of court. 1270

(3) The prosecuting attorney of any county may file a 1271
complaint with the court of common pleas of that county requesting 1272
the court to issue a protective order preventing the disclosure 1273
pursuant to division (H)(1) or (2) of this section of any 1274
confidential law enforcement investigatory record. The court shall 1275
schedule a hearing on the motion and give notice of the date, 1276
time, and location of the hearing to all parties. 1277

(I) A court that issues a parenting time order or decree 1278
pursuant to this section or section 3109.12 of the Revised Code 1279
shall determine whether the parent granted the right of parenting 1280
time is to be permitted access, in accordance with section 1281
5104.011 of the Revised Code, to any child day-care center that 1282
is, or that in the future may be, attended by the children with 1283
whom the right of parenting time is granted. Unless the court 1284
determines that the parent who is not the residential parent 1285
should not have access to the center to the same extent that the 1286
residential parent is granted access to the center, the parent who 1287
is not the residential parent and who is granted parenting time 1288
rights is entitled to access to the center to the same extent that 1289
the residential parent is granted access to the center. If the 1290
court determines that the parent who is not the residential parent 1291
should not have access to the center to the same extent that the 1292
residential parent is granted such access under division (C) of 1293
section 5104.011 of the Revised Code, the court shall specify the 1294
terms and conditions under which the parent who is not the 1295

residential parent is to have access to the center, provided that 1296
the access shall not be greater than the access that is provided 1297
to the residential parent under division (C) of section 5104.011 1298
of the Revised Code, the court shall enter its written findings of 1299
fact and opinions in the journal, and the court shall include the 1300
terms and conditions of access in the parenting time order or 1301
decree. 1302

(J)(1) Subject to division (F) of section 3319.321 of the 1303
Revised Code, when a court issues an order or decree allocating 1304
parental rights and responsibilities for the care of a child, the 1305
parent of the child who is not the residential parent of the child 1306
is entitled to access, under the same terms and conditions under 1307
which access is provided to the residential parent, to any student 1308
activity that is related to the child and to which the residential 1309
parent of the child legally is provided access, unless the court 1310
determines that it would not be in the best interest of the child 1311
to grant the parent who is not the residential parent access to 1312
the student activities under those same terms and conditions. If 1313
the court determines that the parent of the child who is not the 1314
residential parent should not have access to any student activity 1315
that is related to the child under the same terms and conditions 1316
as provided for the residential parent, the court shall specify 1317
the terms and conditions under which the parent who is not the 1318
residential parent is to have access to those student activities, 1319
shall enter its written findings of facts and opinion in the 1320
journal, and shall issue an order containing the terms and 1321
conditions to both the residential parent and the parent of the 1322
child who is not the residential parent. The court shall include 1323
in every order issued pursuant to this division notice that any 1324
school official or employee who knowingly fails to comply with the 1325
order or division (J) of this section is in contempt of court. 1326

(2) Subject to division (F) of section 3319.321 of the 1327

Revised Code, subsequent to the issuance of an order under 1328
division (J)(1) of this section, all school officials and 1329
employees shall permit the parent of the child who is not the 1330
residential parent to have access to any student activity under 1331
the same terms and conditions under which access is provided to 1332
the residential parent of the child, unless the residential parent 1333
has presented the school official or employee, the board of 1334
education of the school, or the governing body of the chartered 1335
nonpublic school with a copy of an order issued under division 1336
(J)(1) of this section that limits the terms and conditions under 1337
which the parent who is not the residential parent is to have 1338
access to student activities related to the child and the order 1339
pertains to the student activity in question. If the residential 1340
parent presents the school official or employee, the board of 1341
education of the school, or the governing body of the chartered 1342
nonpublic school with a copy of that type of order, the school 1343
official or employee shall permit the parent who is not the 1344
residential parent to have access to the student activity only in 1345
accordance with the most recent order that has been issued 1346
pursuant to division (J)(1) of this section and presented to the 1347
school official or employee, the board of education of the school, 1348
or the governing body of the chartered nonpublic school by the 1349
residential parent or the parent who is not the residential 1350
parent. Any school official or employee who knowingly fails to 1351
comply with division (J) of this section or with any order issued 1352
pursuant to division (J)(1) of this section is in contempt of 1353
court. 1354

(K) If any person is found in contempt of court for failing 1355
to comply with or interfering with any order or decree granting 1356
parenting time rights issued pursuant to this section or section 1357
3109.12 of the Revised Code or companionship or visitation rights 1358
issued pursuant to this section, section 3109.11 or 3109.12 of the 1359
Revised Code, or any other provision of the Revised Code, the 1360

court that makes the finding, in addition to any other penalty or
remedy imposed, shall assess all court costs arising out of the
contempt proceeding against the person and require the person to
pay any reasonable attorney's fees of any adverse party, as
determined by the court, that arose in relation to the act of
contempt, and may award reasonable compensatory parenting time or
visitation to the person whose right of parenting time or
visitation was affected by the failure or interference if such
compensatory parenting time or visitation is in the best interest
of the child. Any compensatory parenting time or visitation
awarded under this division shall be included in an order issued
by the court and, to the extent possible, shall be governed by the
same terms and conditions as was the parenting time or visitation
that was affected by the failure or interference.

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

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

(N) As used in this section:

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

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

(a) Records maintained by public and nonpublic schools;

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

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

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

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

Sec. 3109.09. (A) As used in this section, "parent" means one of the following:

(1) Both parents unless division (A)(2) or (3) of this section applies;

(2) The parent designated the residential parent and legal custodian pursuant to an order issued under section 3109.04 of the Revised Code that is not a ~~shared parenting~~ an equal legal and physical access order;

(3) The custodial parent of a child born out of wedlock with respect to whom no custody order has been issued.

(B) Any owner of property, including any board of education 1422
of a city, local, exempted village, or joint vocational school 1423
district, may maintain a civil action to recover compensatory 1424
damages not exceeding ten thousand dollars and court costs from 1425
the parent of a minor if the minor willfully damages property 1426
belonging to the owner or commits acts cognizable as a "theft 1427
offense," as defined in section 2913.01 of the Revised Code, 1428
involving the property of the owner. The action may be joined with 1429
an action under Chapter 2737. of the Revised Code against the 1430
minor, or the minor and the minor's parent, to recover the 1431
property regardless of value, but any additional damages recovered 1432
from the parent pursuant to this section shall be limited to 1433
compensatory damages not exceeding ten thousand dollars, as 1434
authorized by this section. A finding of willful destruction of 1435
property or of committing acts cognizable as a theft offense is 1436
not dependent upon a prior finding that the child is a delinquent 1437
child or upon the child's conviction of any criminal offense. 1438

(C)(1) If a court renders a judgment in favor of a board of 1439
education of a city, local, exempted village, or joint vocational 1440
school district in an action brought pursuant to division (B) of 1441
this section, if the board of education agrees to the parent's 1442
performance of community service in lieu of full payment of the 1443
judgment, and if the parent who is responsible for the payment of 1444
the judgment agrees to voluntarily participate in the performance 1445
of community service in lieu of full payment of the judgment, the 1446
court may order the parent to perform community service in lieu of 1447
providing full payment of the judgment. 1448

(2) If a court, pursuant to division (C)(1) of this section, 1449
orders a parent to perform community service in lieu of providing 1450
full payment of a judgment, the court shall specify in its order 1451
the amount of the judgment, if any, to be paid by the parent, the 1452
type and number of hours of community service to be performed by 1453

the parent, and any other conditions necessary to carry out the order. 1454
1455

(D) This section shall not apply to a parent of a minor if the minor was married at the time of the commission of the acts or violations that would otherwise give rise to a civil action commenced under this section. 1456
1457
1458
1459

(E) Any action brought pursuant to this section shall be commenced and heard as in other civil actions. 1460
1461

(F) The monetary limitation upon compensatory damages set forth in this section does not apply to a civil action brought pursuant to section 2307.70 of the Revised Code. 1462
1463
1464

Sec. 3109.56. When a parent seeks to create a power of attorney pursuant to section 3109.52 of the Revised Code, all of the following apply: 1465
1466
1467

(A) The power of attorney shall be executed by both parents if any of the following apply: 1468
1469

(1) The parents are married to each other and are living as husband and wife. 1470
1471

(2) The child is the subject of ~~a shared parenting~~ an equal legal and physical access decree or order issued pursuant to section 3109.04 of the Revised Code. 1472
1473
1474

(3) The child is the subject of a custody order issued pursuant to section 3109.04 of the Revised Code unless one of the following is the case: 1475
1476
1477

(a) The parent who is not the residential parent and legal custodian is prohibited from receiving a notice of relocation in accordance with section 3109.051 of the Revised Code. 1478
1479
1480

(b) The parental rights of the parent who is not the residential parent and legal custodian have been terminated by 1481
1482

order of a juvenile court pursuant to Chapter 2151. of the Revised Code. 1483
1484

(c) The parent who is not the residential parent and legal custodian cannot be located with reasonable efforts. 1485
1486

(B) In all other cases, the power of attorney may be executed only by one of the following persons: 1487
1488

(1) The parent who is the residential parent and legal custodian of the child, as determined by court order or as provided in section 3109.042 of the Revised Code; 1489
1490
1491

(2) The parent with whom the child is residing the majority of the school year in cases in which no court has issued an order designating a parent as the residential parent and legal custodian of the child or section 3109.042 of the Revised Code is not applicable. 1492
1493
1494
1495
1496

Sec. 3119.022. When a court or child support enforcement agency calculates the amount of child support to be paid pursuant to a child support order in a proceeding in which one parent is the residential parent and legal custodian of all of the children who are the subject of the child support order or in which the court issues ~~a shared parenting~~ an equal legal and physical access order, the court or agency shall use a worksheet identical in content and form to the following: 1497
1498
1499
1500
1501
1502
1503
1504

CHILD SUPPORT COMPUTATION WORKSHEET 1505

SOLE RESIDENTIAL PARENT OR ~~SHARED PARENTING~~ EQUAL LEGAL AND PHYSICAL ACCESS ORDER 1506
1507

Name of parties 1508

Case No. 1509

Number of minor children 1510

The following parent was designated as residential parent and 1511

legal custodian: mother father shared 1512

that the total earnings from overtime and/or bonuses during the current calendar year will meet or exceed the amount that is the lower of the average of the three years or the year 1 amount. If, however, there exists a reasonable expectation that the total earnings from overtime/bonuses during the current calendar year will be less than the lower of the average of the 3 years or the year 1 amount, include only the amount reasonably expected to be earned this year.)

.....	\$.....	\$.....	1528
2. For self-employment income:			1529
a. Gross receipts from business			1530
.....	\$.....	\$.....	1531
b. Ordinary and necessary business expenses			1532
.....	\$.....	\$.....	1533
c. 5.6% of adjusted gross income or the actual marginal difference			1534

	between the actual rate paid by the self-employed individual and the F.I.C.A. rate	\$.....	\$.....	1535
d.	Adjusted gross income from self-employment (subtract the sum of 2b and 2c from 2a)	\$.....	\$.....	1536 1537
3.	Annual income from interest and dividends (whether or not taxable)	\$.....	\$.....	1538 1539
4.	Annual income from unemployment compensation	\$.....	\$.....	1540 1541
5.	Annual income from workers' compensation, disability insurance benefits, or social security disability/retirement benefits	\$.....	\$.....	1542 1543
6.	Other annual income (identify)	\$.....	\$.....	1544 1545
7.a.	Total annual gross income (add lines 1a, 1b, 2d, and 3-6)	\$.....	\$.....	1546 1547
b.	Health insurance maximum	\$.....	\$.....	1548

(multiply line 7a by 5%)

ADJUSTMENTS TO INCOME:			1549
8.	Adjustment for minor children born to or adopted by either parent and another parent who are living with this parent; adjustment does not apply to stepchildren (number of children times federal income tax exemption less child support received, not to exceed the federal tax exemption)		1550
	\$.....	\$.....
			1551
9.	Annual court-ordered support paid for other children		1552
	\$.....	\$.....
			1553
10.	Annual court-ordered spousal support paid to any spouse or former spouse		1554
	\$.....	\$.....
			1555
11.	Amount of local income taxes actually paid or estimated to be paid		1556
	\$.....	\$.....
			1557
12.	Mandatory work-related deductions such as union dues, uniform fees, etc. (not including taxes,		1558

	social security, or retirement)			
	.....	\$.....	\$.....	1559
13.	Total gross income			1560
	adjustments (add lines 8 through 12)			
	.....	\$.....	\$.....	1561
14.a.	Adjusted annual gross income (subtract line 13 from line 7a)			1562
	.....	\$.....	\$.....	1563
b.	Cash medical support maximum (If the amount on line 7a, Col. I, is under 150% of the federal poverty level for an individual, enter \$0 on line 14b, Col. I. If the amount on line 7a, Col. I, is 150% or higher of the federal poverty level for an individual, multiply the amount on line 14a, Col. I, by 5% and enter this amount on line 14b, Col. I. If the amount on line 7a, Col. II, is under 150% of the federal poverty level for an individual, enter \$0 on line 14b, Col. II. If the amount on line 7a, Col. II, is 150% or			1564

higher of the federal
poverty level for an
individual, multiply the
amount on line 14a, Col.
II, by 5% and enter this
amount on line 14b, Col.
II.)

	.....	\$.....	\$.....	1565
15.	Combined annual income that is basis for child support order (add line 14a, Col. I and Col. II)			1566
			\$.....	1567
16.	Percentage of parent's income to total income			1568
a.	Father (divide line 14a, Col. I, by line 15, Col. III)%			1569
b.	Mother (divide line 14a, Col. II, by line 15, Col. III)%			1570
17.	Basic combined child support obligation (refer to schedule, first column, locate the amount nearest to the amount on line 15, Col. III, then refer to column for number of children in this family. If the income of the parents is more than one sum but less than another, you			1571

	may calculate the difference.)			
	.....	\$.....	1572
18.	Annual support obligation per parent		1573	
a.	Father (multiply line 17, Col. III, by line 16a)		1574	
	.....	\$.....	1575
b.	Mother (multiply line 17, Col. III, by line 16b)		1576	
	.....	\$.....	1577
19.	Annual child care expenses for children who are the subject of this order that are work-, employment training-, or education-related, as approved by the court or agency (deduct tax credit from annual cost, whether or not claimed)		1578	
	\$.....	\$.....	1579
20.a.	Marginal, out-of-pocket costs, necessary to provide for health insurance for the children who are the subject of this order (contributing cost of private family health insurance, minus the contributing cost of private single health insurance, divided by the		1580	

	total number of dependents covered by the plan, including the children subject of the support order, times the number of children subject of the support order)	.....	\$.....	\$.....	1581
b.	Cash medical support obligation (enter the amount on line 14b or the amount of annual health care expenditures estimated by the United States Department of Agriculture and described in section 3119.30 of the Revised Code, whichever amount is lower)	.....	\$.....	\$.....	1582
		.....	\$.....	\$.....	1583
21.	ADJUSTMENTS TO CHILD SUPPORT WHEN HEALTH INSURANCE IS PROVIDED:				1584
	Father (only if obligor or shared parenting <u>equal legal and physical access</u>)		Mother (only if obligor or shared parenting <u>equal legal and physical access</u>)		1585
a.	Additions: line 16a times the sum of amounts shown on line 19, Col. II and line 20a, Col. II		b.	Additions: line 16b times the sum of amounts shown on line 19, Col. I and line 20a, Col. I	1586
	\$.....			\$.....	1587
c.	Subtractions: line 16b times sum of amounts shown		d.	Subtractions: line 16a times sum of amounts shown on line	1588

	on line 19, Col. I and line 20a, Col. I	19, Col. II and line 20a, Col. II	
	\$.....	\$.....	1589
22.	OBLIGATION AFTER ADJUSTMENTS TO CHILD SUPPORT WHEN HEALTH INSURANCE IS PROVIDED:		1590
a.	Father: line 18a plus or minus the difference between line 21a minus line 21c \$.....		1591 1592
b.	Mother: line 18b plus or minus the difference between line 21b minus line 21d \$.....		1593 1594
23.	ACTUAL ANNUAL OBLIGATION WHEN HEALTH INSURANCE IS PROVIDED:		1595
a.	(Line 22a or 22b, whichever line corresponds to the parent who is the obligor). \$.....		1596 1598
b.	Any non-means-tested benefits, including social security and veterans' benefits, paid to and received by a child or a person on behalf of the child due to death, disability, or retirement of the parent \$.....		1597 1598
c.	Actual annual obligation (subtract line 23b from line 23a)		1599

	.....	\$.....	1600
24.	ADJUSTMENTS TO CHILD SUPPORT WHEN HEALTH INSURANCE IS NOT PROVIDED:		1601
	Father (only if obligor or shared parenting <u>equal legal and physical access</u>)	Mother (only if obligor or shared parenting <u>equal legal and physical access</u>)	1602
a.	Additions: line 16a times the sum of the amounts shown on line 19, Col. II and line 20b, Col. II	b. Additions: line 16b times the sum of the amounts shown on line 19, Col. I and line 20b, Col. I	1603
	\$.....	\$.....	1604
c.	Subtractions: line 16b times the sum of the amounts shown on line 19, Col. I and line 20b, Col. I	d. Subtractions: line 16a times the sum of the amounts shown on line 19, Col. II and line 20b, Col. II	1605
	\$.....	\$.....	1606
25.	OBLIGATION AFTER ADJUSTMENTS TO CHILD SUPPORT WHEN HEALTH INSURANCE IS NOT PROVIDED:		1607
a.	Father: line 18a plus or minus the difference between line 24a minus line 24c		1608
	.....	\$.....	1609
b.	Mother: line 18b plus or minus the difference between line 24b and 24d		1610
	.....	\$.....	1611
26.	ACTUAL ANNUAL OBLIGATION WHEN HEALTH INSURANCE IS NOT PROVIDED:		1612
a.	(Line 25a or 25b, whichever line corresponds to the parent who is the obligor)	\$.....	1613

b.	Any non-means-tested	\$.....	1614
	benefits, including		
	social security and		
	veterans' benefits, paid		
	to and received by a		
	child or a person on		
	behalf of the child due		
	to death, disability, or		
	retirement of the parent		
c.	Actual annual obligation	\$.....	1615
	(subtract line 26b from		
	line 26a)		
27.a.	Deviation from sole residential parent support amount shown		1616
	on line 23c if amount would be unjust or inappropriate: (see		
	section 3119.23 of the Revised Code.) (Specific facts and		
	monetary value must be stated.)		
	.....		1617
	.....		1618
	.....		1619
	.....		1620
b.	Deviation from shared parenting <u>equal legal and physical</u>		1621
	<u>access</u> order: (see sections 3119.23 and 3119.24 of the		
	Revised Code.) (Specific facts including amount of time		
	children spend with each parent, ability of each parent to		
	maintain adequate housing for children, and each parent's		
	expenses for children must be stated to justify deviation.)		
	.....		1622
	.....		1623
	.....		1624
	.....		1625
	WHEN	WHEN	1626
	HEALTH	HEALTH	1627
	INSURANCE	INSURANCE	1628

	IS	IS NOT	1629
	PROVIDED	PROVIDED	1630
28.	FINAL CHILD SUPPORT		1631
	FIGURE: (This amount reflects final annual child support obligation; in Col. I, enter line 23c plus or minus any amounts indicated in line 27a or 27b; in Col. II, enter line 26c plus or minus any amounts indicated in line 27a or 27b)		
	..... \$.....	\$..... Father/Mother,	1632
		OBLIGOR	
29.	FOR DECREE: Child support per month (divide obligor's annual share, line 28, by 12) plus any processing charge		1633
	..... \$.....	\$.....	1634
30.	FINAL CASH MEDICAL SUPPORT FIGURE: (this amount reflects the final annual cash medical support to be paid by the obligor when neither parent provides health insurance coverage for the child; enter obligor's cash medical support amount from line 20b)		1635

	\$.....	1636
31. FOR DECREE: Cash medical support per month (divide line 30 by 12)		1637
	\$.....	1638
Prepared by:		1639
Counsel:	Pro se:	1640
(For mother/father)		1641
CSEA:	Other:	1642
Worksheet Has Been Reviewed and Agreed To:		1643
.....	.....	1644
Mother	Date	1645
.....	.....	1646
Father	Date	1647

Sec. 3119.24. (A)(1) A court that issues ~~a shared parenting~~ an equal legal and physical access order in accordance with section 3109.04 of the Revised Code shall order an amount of child support to be paid under the child support order that is calculated in accordance with the schedule and with the worksheet set forth in section 3119.022 of the Revised Code, through the line establishing the actual annual obligation, except that, if that amount would be unjust or inappropriate to the children or either parent and would not be in the best interest of the child because of the extraordinary circumstances of the parents or because of any other factors or criteria set forth in section 3119.23 of the Revised Code, the court may deviate from that amount.

(2) The court shall consider extraordinary circumstances and other factors or criteria if it deviates from the amount described in division (A)(1) of this section and shall enter in the journal the amount described in division (A)(1) of this section its determination that the amount would be unjust or inappropriate and

would not be in the best interest of the child, and findings of fact supporting its determination.

(B) For the purposes of this section, "extraordinary circumstances of the parents" includes all of the following:

(1) The amount of time the children spend with each parent;

(2) The ability of each parent to maintain adequate housing for the children;

(3) Each parent's expenses, including child care expenses, school tuition, medical expenses, dental expenses, and any other expenses the court considers relevant;

(4) Any other circumstances the court considers relevant.

Sec. 3313.98. Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, the provisions of this section and sections 3313.981 to 3313.983 of the Revised Code that apply to a city school district do not apply to a joint vocational or cooperative education school district unless expressly specified.

(A) As used in this section and sections 3313.981 to 3313.983 of the Revised Code:

(1) "Parent" means either of the natural or adoptive parents of a student, except under the following conditions:

(a) When the marriage of the natural or adoptive parents of the student has been terminated by a divorce, dissolution of marriage, or annulment or the natural or adoptive parents of the student are living separate and apart under a legal separation decree and the court has issued an order allocating the parental rights and responsibilities with respect to the student, "parent" means the residential parent as designated by the court except that "parent" means either parent when the court issues ~~a shared parenting~~ an equal legal and physical access decree.

(b) When a court has granted temporary or permanent custody of the student to an individual or agency other than either of the natural or adoptive parents of the student, "parent" means the legal custodian of the child.

(c) When a court has appointed a guardian for the student, "parent" means the guardian of the student.

(2) "Native student" means a student entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in a district adopting a resolution under this section.

(3) "Adjacent district" means a city, exempted village, or local school district having territory that abuts the territory of a district adopting a resolution under this section.

(4) "Adjacent district student" means a student entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in an adjacent district.

(5) "Adjacent district joint vocational student" means an adjacent district student who enrolls in a city, exempted village, or local school district pursuant to this section and who also enrolls in a joint vocational school district that does not contain the territory of the district for which that student is a native student and does contain the territory of the city, exempted village, or local district in which the student enrolls.

(6) "Formula amount" has the same meaning as in section 3317.02 of the Revised Code.

(7) "Adjusted formula amount" means the sum of the formula amount plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code for fiscal year 2009.

(8) "Poverty line" means the poverty line established by the director of the United States office of management and budget as

revised by the director of the office of community services in 1726
accordance with section 673(2) of the "Community Services Block 1727
Grant Act," 95 Stat. 1609, 42 U.S.C.A. 9902, as amended. 1728

(9) "IEP" has the same meaning as in section 3323.01 of the 1729
Revised Code. 1730

(10) "Other district" means a city, exempted village, or 1731
local school district having territory outside of the territory of 1732
a district adopting a resolution under this section. 1733

(11) "Other district student" means a student entitled under 1734
section 3313.64 or 3313.65 of the Revised Code to attend school in 1735
an other district. 1736

(12) "Other district joint vocational student" means a 1737
student who is enrolled in any city, exempted village, or local 1738
school district and who also enrolls in a joint vocational school 1739
district that does not contain the territory of the district for 1740
which that student is a native student in accordance with a policy 1741
adopted under section 3313.983 of the Revised Code. 1742

(B)(1) The board of education of each city, local, and 1743
exempted village school district shall adopt a resolution 1744
establishing for the school district one of the following 1745
policies: 1746

(a) A policy that entirely prohibits the enrollment of 1747
students from adjacent districts or other districts, other than 1748
students for whom tuition is paid in accordance with section 1749
3317.08 of the Revised Code; 1750

(b) A policy that permits enrollment of students from all 1751
adjacent districts in accordance with policy statements contained 1752
in the resolution; 1753

(c) A policy that permits enrollment of students from all 1754
other districts in accordance with policy statements contained in 1755

the resolution. 1756

(2) A policy permitting enrollment of students from adjacent 1757
or from other districts, as applicable, shall provide for all of 1758
the following: 1759

(a) Application procedures, including deadlines for 1760
application and for notification of students and the 1761
superintendent of the applicable district whenever an adjacent or 1762
other district student's application is approved. 1763

(b) Procedures for admitting adjacent or other district 1764
applicants free of any tuition obligation to the district's 1765
schools, including, but not limited to: 1766

(i) The establishment of district capacity limits by grade 1767
level, school building, and education program; 1768

(ii) A requirement that all native students wishing to be 1769
enrolled in the district will be enrolled and that any adjacent or 1770
other district students previously enrolled in the district shall 1771
receive preference over first-time applicants; 1772

(iii) Procedures to ensure that an appropriate racial balance 1773
is maintained in the district schools. 1774

(C) Except as provided in section 3313.982 of the Revised 1775
Code, the procedures for admitting adjacent or other district 1776
students, as applicable, shall not include: 1777

(1) Any requirement of academic ability, or any level of 1778
athletic, artistic, or other extracurricular skills; 1779

(2) Limitations on admitting applicants because of 1780
disability, except that a board may refuse to admit a student 1781
receiving services under Chapter 3323. of the Revised Code, if the 1782
services described in the student's IEP are not available in the 1783
district's schools; 1784

(3) A requirement that the student be proficient in the 1785

English language;	1786
(4) Rejection of any applicant because the student has been subject to disciplinary proceedings, except that if an applicant has been suspended or expelled by the student's district for ten consecutive days or more in the term for which admission is sought or in the term immediately preceding the term for which admission is sought, the procedures may include a provision denying admission of such applicant.	1787 1788 1789 1790 1791 1792 1793
(D)(1) Each school board permitting only enrollment of adjacent district students shall provide information about the policy adopted under this section, including the application procedures and deadlines, to the superintendent and the board of education of each adjacent district and, upon request, to the parent of any adjacent district student.	1794 1795 1796 1797 1798 1799
(2) Each school board permitting enrollment of other district students shall provide information about the policy adopted under this section, including the application procedures and deadlines, upon request, to the board of education of any other school district or to the parent of any student anywhere in the state.	1800 1801 1802 1803 1804
(E) Any school board shall accept all credits toward graduation earned in adjacent or other district schools by an adjacent or other district student or a native student.	1805 1806 1807
(F)(1) No board of education may adopt a policy discouraging or prohibiting its native students from applying to enroll in the schools of an adjacent or any other district that has adopted a policy permitting such enrollment, except that:	1808 1809 1810 1811
(a) A district may object to the enrollment of a native student in an adjacent or other district in order to maintain an appropriate racial balance.	1812 1813 1814
(b) The board of education of a district receiving funds under 64 Stat. 1100 (1950), 20 U.S.C.A. 236 et seq., as amended,	1815 1816

may adopt a resolution objecting to the enrollment of its native 1817
students in adjacent or other districts if at least ten per cent 1818
of its students are included in the determination of the United 1819
States secretary of education made under section 20 U.S.C.A. 1820
238(a). 1821

(2) If a board objects to enrollment of native students under 1822
this division, any adjacent or other district shall refuse to 1823
enroll such native students unless tuition is paid for the 1824
students in accordance with section 3317.08 of the Revised Code. 1825
An adjacent or other district enrolling such students may not 1826
receive funding for those students in accordance with section 1827
3313.981 of the Revised Code. 1828

(G) The state board of education shall monitor school 1829
districts to ensure compliance with this section and the 1830
districts' policies. The board may adopt rules requiring uniform 1831
application procedures, deadlines for application, notification 1832
procedures, and record-keeping requirements for all school boards 1833
that adopt policies permitting the enrollment of adjacent or other 1834
district students, as applicable. If the state board adopts such 1835
rules, no school board shall adopt a policy that conflicts with 1836
those rules. 1837

(H) A resolution adopted by a board of education under this 1838
section that entirely prohibits the enrollment of students from 1839
adjacent and from other school districts does not abrogate any 1840
agreement entered into under section 3313.841 or 3313.92 of the 1841
Revised Code or any contract entered into under section 3313.90 of 1842
the Revised Code between the board of education adopting the 1843
resolution and the board of education of any adjacent or other 1844
district or prohibit these boards of education from entering into 1845
any such agreement or contract. 1846

(I) Nothing in this section shall be construed to permit or 1847
require the board of education of a city, exempted village, or 1848

local school district to exclude any native student of the 1849
district from enrolling in the district. 1850

Sec. 5120.653. An inmate's participation in the prison 1851
nursery program may be terminated by the department of 1852
rehabilitation and correction if one of the following occurs: 1853

(A) The inmate fails to comply with the agreement entered 1854
into under division (A) of section 5120.652 of the Revised Code. 1855

(B) The inmate's child becomes seriously ill, cannot meet 1856
medical criteria established by the department of rehabilitation 1857
and correction for the program, or otherwise cannot safely 1858
participate in the program. 1859

(C) A court issues an order that designates a person other 1860
than the inmate as the child's residential parent and legal 1861
custodian. 1862

(D) A juvenile court, in an action brought pursuant to 1863
division (A)(2) of section 2151.23 of the Revised Code, grants 1864
custody of the child to a person other than the inmate. 1865

(E) An order is issued pursuant to section 3109.04 of the 1866
Revised Code granting ~~shared parenting~~ equal legal and physical
access to both parents of the child. 1867
1868

(F) An order of disposition regarding the child is issued 1869
pursuant to division (A)(2), (3), or (4) of section 2151.353 of 1870
the Revised Code granting temporary, permanent, or legal custody 1871
of the child to a person, other than the inmate, or to a public 1872
children services agency or private child placing agency. 1873

(G) The inmate is released from imprisonment. 1874

Section 2. That existing sections 3105.65, 3109.03, 3109.04, 1875
3109.041, 3109.043, 3109.051, 3109.09, 3109.56, 3119.022, 3119.24, 1876
3313.98, and 5120.653 of the Revised Code are hereby repealed. 1877