

Baldwin's Ohio Revised Code Annotated

Title XXXI. Domestic Relations--Children

Chapter 3105. Divorce, Legal Separation, Annulment, Dissolution of Marriage (Refs & Annos)

Child Custody and Support

R.C. § 3105.21

3105.21 Custody and support of children; support orders

Currentness

(A) Upon satisfactory proof of the causes in the complaint for divorce, annulment, or legal separation, the court of common pleas shall make an order for the disposition, care, and maintenance of the children of the marriage, as is in their best interests, and in accordance with [section 3109.04 of the Revised Code](#).

(B) Upon the failure of proof of the causes in the complaint, the court may make the order for the disposition, care, and maintenance of any dependent child of the marriage as is in the child's best interest, and in accordance with [section 3109.04 of the Revised Code](#).

(C) Any court of common pleas that makes or modifies an order for child support under this section shall comply with Chapters 3119., 3121., 3123., and 3125. of the Revised Code. If any person required to pay child support under an order made under this section on or after April 15, 1985, or modified on or after December 1, 1986, is found in contempt of court for failure to make support payments under the order, the 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.

CREDIT(S)

(2000 S 180, eff. 3-22-01; 1997 H 352, eff. 1-1-98; 1993 H 173, eff. 12-31-93; 1992 S 10; 1990 H 514, H 591; 1988 H 708; 1987 H 231; 1986 H 509; 1984 H 614; 1974 H 233)

[Notes of Decisions \(173\)](#)

R.C. § 3105.21, OH ST § 3105.21

Current through 2013 File 24 of the 130th GA (2013-2014).

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Baldwin's Ohio Revised Code Annotated
Title XXXI. Domestic Relations--Children
Chapter 3109. Children (Refs & Annos)
Parental Rights and Responsibilities

R.C. § 3109.03

3109.03 Equal rights of parents to parental rights and responsibilities toward children

Currentness

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

CREDIT(S)

(1990 S 3, eff. 4-11-91; 1953 H 1; GC 8005-3; Source--GC 8032)

Notes of Decisions (64)

R.C. § 3109.03, OH ST § 3109.03

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Baldwin's Ohio Revised Code Annotated
Title XXXI. Domestic Relations--Children
Chapter 3109. Children (Refs & Annos)
Parental Rights and Responsibilities

R.C. § 3109.04

3109.04 Court awarding parental rights and responsibilities; shared
parenting; modifications; best interests of child; child's wishes

Effective: June 9, 2011

[Currentness](#)

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

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

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

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

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

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

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

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

(3) No person shall obtain or attempt to obtain from a child 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 submit to medical, psychological, and psychiatric examinations. 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 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.

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 resulting in a child being a neglected child, the court shall consider that fact against naming that parent the residential parent and against granting a shared parenting decree. When the court allocates parental rights and responsibilities for the care of children or determines whether to grant shared parenting in any proceeding, it shall consider whether either parent or any member of the household of either parent has been convicted of or pleaded guilty to a violation of [section 2919.25 of the Revised Code](#) or a sexually oriented 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, has been convicted of or pleaded guilty to any sexually oriented offense or 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 either parent has been convicted of or pleaded guilty to a violation

of [section 2919.25 of the Revised Code](#) or a sexually oriented 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, has been convicted of or pleaded guilty to any sexually oriented offense or 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 may designate that parent as the residential parent and may issue a shared parenting decree or order only if it determines that it is in the best interest of the child to name that parent the residential parent or to issue a shared parenting decree or order and it makes specific written findings of fact to support its determination.

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

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

(ii) If each parent makes a request in the parent's pleadings or files a motion and each also files a separate plan, the court shall review each plan filed to determine if either is in the best interest of the children. If the court determines that one of the filed plans is in the best interest of the children, the court may approve the plan. If the court determines that neither filed plan is in the best interest of the children, the court may order each parent to submit appropriate changes to the parent's plan or both of the filed plans to meet the court's objections, or may select one of the filed plans and order each parent to submit appropriate changes to the selected plan to meet the court's objections. If changes to the plan or plans are submitted to meet the court's objections, and if any of the filed plans with the changes is in the best interest of the children, the court may approve the plan with the changes. If changes to the plan or plans are not submitted to meet the court's objections, or 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 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 under this division and proceeds as if the requests in the pleadings or the motions had not been made, 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 each parent makes a request in the parent's pleadings or files a motion but only one parent files a plan, 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 in accordance with division (G) of this section. The court shall review each plan filed to determine if any plan is in the best interest of the children. If the court determines that one of the filed plans is in the best interest of the children, the court may approve the plan. If the court determines that no filed plan is in the

best interest of the children, the court may order each parent to submit appropriate changes to the parent's plan or both of the filed plans to meet the court's objections or may select one filed plan and order each parent to submit appropriate changes to the selected plan to meet the court's objections. If changes to the plan or plans are submitted to meet the court's objections, and if any of the filed plans with the changes is in the best interest of the children, the court may approve the plan with the changes. If changes to the plan or plans are not submitted to meet the court's objections, or 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 the parents' motion or reject the portion of the parents' pleadings or deny their motions requesting shared parenting of the children and proceed as if the request or requests or the motion or motions had not been made. 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 pleadings or denies the motion or motions requesting shared parenting under this division and proceeds as if the request or requests or the motion or motions had not been made, 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(h) Whether either parent or any member of the household of 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 an adjudication; whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to a violation of [section 2919.25 of the Revised Code](#) or a sexually oriented 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 current proceeding; whether either parent or any member of the household of either parent previously has been convicted of or pleaded guilty to any 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 current proceeding and caused physical harm to the victim in the commission of the offense; and whether there is reason to believe that either parent has acted in a manner resulting in a child being an abused child or a neglected child;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The court shall not modify a prior decree allocating parental rights and responsibilities unless the court determines that there has been a change in circumstances of the child, the child's residential parent, or either of the parents subject to a shared parenting decree, and that modification is necessary to serve the best interest of the child. The court shall not find past, present, or possible future active military service in the uniformed services to constitute a change in circumstances justifying modification of a prior decree pursuant to division (E) of this section. The court shall make specific written findings of fact to support any modification under this division.

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

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

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

(J) As used in this section:

(1) "Abused child" has the same meaning as in [section 2151.031 of the Revised Code](#).

(2) "Active military service" means service by a member of the uniformed services in compliance with military orders to report for combat operations, contingency operations, peacekeeping operations, a remote tour of duty, or other active service for which

the member is required to report unaccompanied by any family member, including any period of illness, recovery from injury, leave, or other lawful absence during that operation, duty, or service.

(3) “Neglected child” has the same meaning as in [section 2151.03 of the Revised Code](#).

(4) “Sexually oriented offense” has the same meaning as in [section 2950.01 of the Revised Code](#).

(5) “Uniformed services” means the United States armed forces, the army national guard, and the air national guard or any reserve component thereof, or the commissioned corps of the United States public health service.

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

(L) For purposes of the Revised Code:

(1) A parent who is granted the care, custody, and control of a child under an order that was issued pursuant to this section prior to April 11, 1991, and that does not provide for shared parenting has “custody of the child” and “care, custody, and control of the child” under the order, and is the “residential parent,” the “residential parent and legal custodian,” or the “custodial parent” of the child under the order.

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

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

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

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

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

(7) Unless the context clearly requires otherwise and except as otherwise provided in the order, a designation in the order of a parent as the residential parent for the purpose of determining the school the child attends, as the custodial parent for purposes of claiming the child as a dependent pursuant to [section 152\(e\) of the “Internal Revenue Code of 1986,”](#) 100 Stat. 2085, [26 U.S.C.A. 1](#), as amended, or as the residential parent for purposes of receiving public assistance pursuant to division (A)(2) of this section, does not affect the designation pursuant to division (L)(6) of this section of each parent as the “residential parent,” the “residential parent and legal custodian,” or the “custodial parent” of the child.

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

CREDIT(S)

(2011 H 121, eff. 6-9-11; 2007 H 119, eff. 6-30-07; 2006 S 260, eff. 1-2-07; 2004 S 185, eff. 4-11-05; 2000 S 180, eff. 3-22-01; 1994 H 415, eff. 11-9-94; 1993 S 115, eff. 10-12-93; 1990 S 3, H 514, H 591; 1983 H 93; 1981 S 39, H 71; 1977 S 135; 1975 H 370, H 1; 1974 H 740, H 233; 131 v H 745; 1953 H 1; GC 8005-4; Source--GC 8033)

[Notes of Decisions \(1795\)](#)

R.C. § 3109.04, OH ST § 3109.04

Current through 2013 File 24 of the 130th GA (2013-2014).

Baldwin's Ohio Revised Code Annotated
Title XXXI. Domestic Relations--Children
Chapter 3109. Children (Refs & Annos)
Parental Rights and Responsibilities

R.C. § 3109.041

3109.041 Shared parenting modification to decree entered before specific authority in law

Effective: June 30, 2007
Currentness

(A) Parties to any custody decree issued pursuant to [section 3109.04 of the Revised Code](#) prior to April 11, 1991, may file a motion with the court that issued the decree requesting the issuance of a shared parenting decree in accordance with [division \(G\) of section 3109.04 of the Revised Code](#). Upon the filing of the motion, the court shall determine whether to grant the parents shared rights and responsibilities for the care of the children in accordance with divisions (A), (D)(1), (E)(1), and (I) of [section 3109.04 of the Revised Code](#).

(B) A custody decree issued pursuant to [section 3109.04 of the Revised Code](#) prior to April 11, 1991, that granted joint care, custody, and control of the children to the parents shall not be affected or invalidated by, and shall not be construed as being affected or invalidated by, the provisions of [section 3109.04 of the Revised Code](#) relative to the granting of a shared parenting decree or a decree allocating parental rights and responsibilities for the care of children on and after April 11, 1991. The decree issued prior to April 11, 1991 shall remain in full force and effect, subject to modification or termination pursuant to [section 3109.04 of the Revised Code](#) as that section exists on and after April 11, 1991.

(C) As used in this section, “joint custody” and “joint care, custody, and control” have the same meaning as “shared parenting.”

CREDIT(S)

(2007 H 119, eff. 6-30-07; 1990 S 3, eff. 4-11-91; 1981 S 39, H 71)

[Notes of Decisions \(7\)](#)

R.C. § 3109.041, OH ST § 3109.041

Current through 2013 File 24 of the 130th GA (2013-2014).

Baldwin's Ohio Revised Code Annotated
Title XXXI. Domestic Relations--Children
Chapter 3109. Children (Refs & Annos)
Parental Rights and Responsibilities

R.C. § 3109.042

3109.042 Designation of residential parent and legal custodian

[Currentness](#)

An unmarried female who gives birth to a child is the sole residential parent and legal custodian of the child until a court of competent jurisdiction issues an order designating another person as the residential parent and legal custodian. A court designating the residential parent and legal custodian of a child described in this section shall treat the mother and father as standing upon an equality when making the designation.

CREDIT(S)

(1997 H 352, eff. 1-1-98)

[Notes of Decisions \(22\)](#)

R.C. § 3109.042, OH ST § 3109.042

Current through 2013 File 24 of the 130th GA (2013-2014).

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Baldwin's Ohio Revised Code Annotated
Title XXXI. Domestic Relations--Children
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Parental Rights and Responsibilities

R.C. § 3109.043

3109.043 Temporary order regarding allocation of parental rights and responsibilities while action pending

Currentness

In any proceeding pertaining to the allocation of parental rights and responsibilities for the care of a child, when requested in the complaint, answer, or counterclaim, or by motion served with the pleading, upon satisfactory proof by affidavit duly filed with the clerk of the court, the court, without oral hearing and for good cause shown, may make a temporary order regarding the allocation of parental rights and responsibilities for the care of the child while the action is pending.

If a parent and child relationship has not already been established pursuant to [section 3111.02 of the Revised Code](#), the court may take into consideration when determining whether to award parenting time, visitation rights, or temporary custody to a putative father that the putative father is named on the birth record of the child, the child has the putative father's surname, or a clear pattern of a parent and child relationship between the child and the putative father exists.

CREDIT(S)

(2006 H 136, eff. 5-17-06)

[Notes of Decisions \(1\)](#)

R.C. § 3109.043, OH ST § 3109.043

Current through 2013 File 24 of the 130th GA (2013-2014).

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Baldwin's Ohio Revised Code Annotated
Title XXXI. Domestic Relations--Children
Chapter 3109. Children (Refs & Annos)
Parental Rights and Responsibilities

R.C. § 3109.05

3109.05 Support orders; medical needs

Currentness

(A)(1) In a divorce, dissolution of marriage, legal separation, or child support proceeding, the court may order either or both parents to support or help support their children, without regard to marital misconduct. In determining the amount reasonable or necessary for child support, including the medical needs of the child, the court shall comply with Chapter 3119. of the Revised Code.

(2) The court, in accordance with Chapter 3119. of the Revised Code, shall include in each support order made under this section the requirement that one or both of the parents provide for the health care needs of the child to the satisfaction of the court, and the court shall include in the support order a requirement that all support payments be made through the office of child support in the department of job and family services.

(3) The court shall comply with Chapters 3119., 3121., 3123., and 3125. of the Revised Code when it makes or modifies an order for child support under this section.

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

(C) If any person required to pay child support under an order made under division (A) of this section on or after April 15, 1985, or modified on or after December 1, 1986, is found in contempt of court for failure to make support payments under the order, the 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, on or after July 1, 1992, shall assess interest on any unpaid amount of child support pursuant to [section 3123.17 of the Revised Code](#).

(D) The court shall not authorize or permit the escrowing, impoundment, or withholding of any child support payment ordered under this section or any other section of the Revised Code because of a denial of or interference with a right of parenting time granted to a parent in an order issued under this section or [section 3109.051](#) or [3109.12 of the Revised Code](#) or companionship or visitation granted in an order issued under this section, [section 3109.051](#), [3109.11](#), [3109.12](#), or any other section of the Revised Code, or as a method of enforcing the specific provisions of any such order dealing with parenting time or visitation.

CREDIT(S)

(2000 S 180, eff. 3-22-01; 1999 H 471, eff. 7-1-00; 1997 H 352, eff. 1-1-98; 1993 H 173, eff. 12-31-93; 1993 S 115; 1992 S 10; 1990 S 3, H 514, H 591, H 15; 1988 H 708; 1987 H 231; 1986 H 509; 1984 H 614; 1981 H 694, H 71; 1974 H 233; 1971 H 163, H 544; 1953 H 1; GC 8005-5; Source--GC 8034)

COMPARATIVE LAWS

Ariz.--[A.R.S. § 25-320](#).

Ark.--[A.C.A. § 9-12-312](#).

Conn.--[C.G.S.A. § 46b-84](#).

Ga.--[O.C.G.A. § 19-6-17](#).

Ill.--[ILCS 750 5/505](#).

Ind.--[West's A.I.C. 31-16-6-1 et seq.](#)

Ky.--Baldwin's [KRS 403.210](#).

La.--[LSA-C.C. art. 227](#).

Mass.--[M.G.L.A. c. 208, § 28](#).

Mich.--[M.C.L.A. § 552.151 et seq.](#)

Mo.--[V.A.M.S. § 452.340](#).

Neb.--[R.R.S.1943, § 42-364 et seq.](#)

N.J.--[N.J.S.A. 2A:34-23](#).

N.M.--[NMSA 1978, § 40-4-7](#).

Wash.--[West's RCWA 26.09.100](#).

Wis.--[W.S.A. 767.25](#).

W.Va.--[Code, 48-12-101 et seq.](#)

[Notes of Decisions \(624\)](#)

R.C. § 3109.05, OH ST § 3109.05

Current through 2013 File 24 of the 130th GA (2013-2014).

Baldwin's Ohio Revised Code Annotated
Title XXXI. Domestic Relations--Children
Chapter 3109. Children (Refs & Annos)
Parental Rights and Responsibilities

R.C. § 3109.051

3109.051 Parenting time rights

Effective: June 9, 2011 to December 31, 2013

[Currentness](#)

<Note: See also version(s) of this section with later effective date(s).>

(A) If a divorce, dissolution, legal separation, or annulment proceeding involves a child and if the court has not issued a shared parenting decree, the court shall consider any mediation report filed pursuant to [section 3109.052 of the Revised Code](#) and, in accordance with division (C) of this section, shall make a just and reasonable order or decree permitting each parent who is not the residential parent to have parenting time with the child at the time and under the conditions that the court directs, unless the court determines that it would not be in the best interest of the child to permit that parent to have parenting time with the child and includes in the journal its findings of fact and conclusions of law. Whenever possible, the order or decree permitting the parenting time shall ensure the opportunity for both parents to have frequent and continuing contact with the child, unless frequent and continuing contact by either parent with the child would not be in the best interest of the child. The court shall include in its final decree a specific schedule of parenting time for that parent. Except as provided in [division \(E\)\(6\) of section 3113.31 of the Revised Code](#), if the court, pursuant to this section, grants parenting time to a parent or companionship or visitation rights to any other person with respect to any child, it shall not require the public children services agency to provide supervision of or other services related to that parent's exercise of parenting time or that person's exercise of companionship or visitation rights with respect to the child. This section does not limit the power of a juvenile court pursuant to Chapter 2151. of the Revised Code to issue orders with respect to children who are alleged to be abused, neglected, or dependent children or to make dispositions of children who are adjudicated abused, neglected, or dependent children or of a common pleas court to issue orders pursuant to [section 3113.31 of the Revised Code](#).

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

- (a) The grandparent, relative, or other person files a motion with the court seeking companionship or visitation rights.
- (b) The court determines that the grandparent, relative, or other person has an interest in the welfare of the child.
- (c) The court determines that the granting of the companionship or visitation rights is in the best interest of the child.

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

(C) When determining whether to grant parenting time rights to a parent pursuant to this section or [section 3109.12 of the Revised Code](#) or to grant companionship or visitation rights to a grandparent, relative, or other person pursuant to this section or [section 3109.11](#) or [3109.12 of the Revised Code](#), when establishing a specific parenting time or visitation schedule, and when determining other parenting time matters under this section or [section 3109.12 of the Revised Code](#) or visitation matters under this section or [section 3109.11](#) or [3109.12 of the Revised Code](#), the court shall consider any mediation report that is filed pursuant to [section 3109.052 of the Revised Code](#) and shall consider all other relevant factors, including, but not limited to, all of the factors listed in division (D) of this section. In considering the factors listed in division (D) of this section for purposes of determining whether to grant parenting time or visitation rights, establishing a specific parenting time or visitation schedule, determining other parenting time matters under this section or [section 3109.12 of the Revised Code](#) or visitation matters under this section or under [section 3109.11](#) or [3109.12 of the Revised Code](#), and resolving any issues related to the making of any determination with respect to parenting time or visitation rights or the establishment of any specific parenting time or visitation schedule, the court, in its discretion, may interview in chambers any or all involved children regarding their wishes and concerns. If the court interviews any child concerning the child's wishes and concerns regarding those parenting time or visitation matters, the interview shall be conducted in chambers, and no person other than the child, the child's attorney, the judge, any necessary court personnel, and, in the judge's discretion, the attorney of each parent shall be permitted to be present in the chambers during the interview. No person shall obtain or attempt to obtain from a child a written or recorded statement or affidavit setting forth the wishes and concerns of the child regarding those parenting time or visitation matters. A court, in considering the factors listed in division (D) of this section for purposes of determining whether to grant any parenting time or visitation rights, establishing a parenting time or visitation schedule, determining other parenting time matters under this section or [section 3109.12 of the Revised Code](#) or visitation matters under this section or under [section 3109.11](#) or [3109.12 of the Revised Code](#), or resolving any issues related to the making of any determination with respect to parenting time or visitation rights or the establishment of any specific parenting time or visitation schedule, shall not accept or consider a written or recorded statement or affidavit that purports to set forth the child's wishes or concerns regarding those parenting time or visitation matters.

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

- (1) The prior interaction and interrelationships of the child with the child's parents, siblings, and other persons related by consanguinity or affinity, and with the person who requested companionship or visitation if that person is not a parent, sibling, or relative of the child;
- (2) The geographical location of the residence of each parent and the distance between those residences, and if the person is not a parent, the geographical location of that person's residence and the distance between that person's residence and the child's residence;
- (3) The child's and parents' available time, including, but not limited to, each parent's employment schedule, the child's school schedule, and the child's and the parents' holiday and vacation schedule;
- (4) The age of the child;

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

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

(7) The health and safety of the child;

(8) The amount of time that will be available for the child to spend with siblings;

(9) The mental and physical health of all parties;

(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;

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

(12) In relation to requested companionship or visitation by a person other than a parent, whether the person 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 the person, 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; whether either parent previously 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 current proceeding; whether either parent previously has been convicted of an 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 current proceeding and caused physical harm to the victim in the commission of the offense; and whether there is reason to believe that the person has acted in a manner resulting in a child being an abused child or a neglected child;

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

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

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

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

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

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

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

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

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

(3) If a court, prior to April 11, 1991, issued an order granting parenting time rights to a parent who is not the residential parent and did not require the residential parent in that order to give the parent who is granted the parenting time rights notice of any change of address and if the residential parent files a notice of relocation pursuant to division (G)(1) of this section, the court shall determine if the parent who is granted the parenting time rights has been convicted of or pleaded guilty to a violation of [section 2919.25 of the Revised Code](#) involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding, has been convicted of or pleaded guilty to any other offense involving a victim who at the time of the commission of the offense was a member of the family or household that is the subject of the proceeding and caused physical harm to the victim in the commission of the offense, or has been determined to be the perpetrator of the abusive act that is the basis of an adjudication that a child is an abused child. If the court determines that the parent who is granted the parenting time rights has not been so convicted and has not been determined to be the perpetrator of an abusive act that is the basis of a child abuse adjudication, the court shall issue an order stating that a copy of any notice of relocation that is filed with the court pursuant to division (G)(1) of this section will be sent to the parent who is granted 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 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 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, the residential parent may file a motion with the court requesting that the parent who is granted the parenting time rights not receive a copy of any notice of relocation. Upon the filing of the motion, the court shall schedule a hearing on the motion and give both parents notice of the date, time, and location of the hearing. If the court determines that the parent who is granted the parenting time rights has been so convicted or has 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 the parent who is granted the parenting time rights 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 or that the residential parent is no longer required to give that parent a copy of any notice of relocation 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. If it does not so find, it shall dismiss the motion.

(H)(1) Subject to [section 3125.16 and division \(F\) of section 3319.321 of the Revised Code](#), a parent of a child who is not the residential parent of the child is entitled to access, under the same terms and conditions under which access is provided to the residential parent, to any record that is related to the child and to which the residential parent of the child legally is provided access, unless the court determines that it would not be in the best interest of the child for the parent who is not the residential parent to have access to the records under those same terms and conditions. If the court determines that the parent of a child who is not the residential parent should not have access to records related to the child under the same terms and conditions as provided for the residential parent, the court shall specify the terms and conditions under which the parent who is not the residential parent is to have access to those records, shall enter its written findings of facts and opinion in the journal, and shall issue an order containing the terms and conditions to both the residential parent and the parent of the child who is not the residential parent. The court shall include in every order issued pursuant to this division notice that any keeper of a record who knowingly fails to comply with the order or division (H) of this section is in contempt of court.

(2) Subject to [section 3125.16 and division \(F\) of section 3319.321 of the Revised Code](#), subsequent to the issuance of an order under division (H)(1) of this section, the keeper of any record that is related to a particular child and to which the residential parent legally is provided access shall permit the parent of the child who is not the residential parent to have access to the record under the same terms and conditions under which access is provided to the residential parent, unless the residential parent has presented the keeper of the record with a copy of an order issued under division (H)(1) of this section that limits the terms and conditions under which the parent who is not the residential parent is to have access to records pertaining to the child and the order pertains to the record in question. If the residential parent presents the keeper of the record with a copy of that type of order, the keeper of the record shall permit the parent who is not the residential parent to have access to the record only in accordance with the most recent order that has been issued pursuant to division (H)(1) of this section and presented to the keeper by the residential parent or the parent who is not the residential parent. Any keeper of any record who knowingly fails to comply with division (H) of this section or with any order issued pursuant to division (H)(1) of this section is in contempt of court.

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

(I) A court that issues a parenting time order or decree pursuant to this section or [section 3109.12 of the Revised Code](#) shall determine whether the parent granted the right of parenting time is to be permitted access, in accordance with [section 5104.011 of the Revised Code](#), to any child day-care center that is, or that in the future may be, attended by the children with whom the right of parenting time is granted. Unless the court determines that the parent who is not the residential parent should not have access to the center to the same extent that the residential parent is granted access to the center, the parent who is not the residential parent and who is granted parenting time rights is entitled to access to the center to the same extent that the residential parent is granted access to the center. If the court determines that the parent who is not the residential parent should not have access to the center to the same extent that the residential parent is granted such access under [division \(C\) of section 5104.011 of the Revised Code](#), the court shall specify the terms and conditions under which the parent who is not the residential parent is to have access to the center, provided that the access shall not be greater than the access that is provided to the residential parent under [division \(C\) of section 5104.011 of the Revised Code](#), the court shall enter its written findings of fact and opinions in the journal, and the court shall include the terms and conditions of access in the parenting time order or decree.

(J)(1) Subject to [division \(F\) of section 3319.321 of the Revised Code](#), when a court issues an order or decree allocating parental rights and responsibilities for the care of a child, the parent of the child who is not the residential parent of the child is entitled to access, under the same terms and conditions under which access is provided to the residential parent, to any student activity that is related to the child and to which the residential parent of the child legally is provided access, unless the court determines that

it would not be in the best interest of the child to grant the parent who is not the residential parent access to the student activities under those same terms and conditions. If the court determines that the parent of the child who is not the residential parent should not have access to any student activity that is related to the child under the same terms and conditions as provided for the residential parent, the court shall specify the terms and conditions under which the parent who is not the residential parent is to have access to those student activities, shall enter its written findings of facts and opinion in the journal, and shall issue an order containing the terms and conditions to both the residential parent and the parent of the child who is not the residential parent. The court shall include in every order issued pursuant to this division notice that any school official or employee who knowingly fails to comply with the order or division (J) of this section is in contempt of court.

(2) Subject to [division \(F\) of section 3319.321 of the Revised Code](#), subsequent to the issuance of an order under division (J)(1) of this section, all school officials and employees shall permit the parent of the child who is not the residential parent to have access to any student activity under the same terms and conditions under which access is provided to the residential parent of the child, unless the residential parent has presented the school official or employee, the board of education of the school, or the governing body of the chartered nonpublic school with a copy of an order issued under division (J)(1) of this section that limits the terms and conditions under which the parent who is not the residential parent is to have access to student activities related to the child and the order pertains to the student activity in question. If the residential parent presents the school official or employee, the board of education of the school, or the governing body of the chartered nonpublic school with a copy of that type of order, the school official or employee shall permit the parent who is not the residential parent to have access to the student activity only in accordance with the most recent order that has been issued pursuant to division (J)(1) of this section and presented to the school official or employee, the board of education of the school, or the governing body of the chartered nonpublic school by the residential parent or the parent who is not the residential parent. Any school official or employee who knowingly fails to comply with division (J) of this section or with any order issued pursuant to division (J)(1) of this section is in contempt of court.

(K) If any person is found in contempt of court for failing to comply with or interfering with any order or decree granting parenting time rights issued pursuant to this section or [section 3109.12 of the Revised Code](#) or companionship or visitation rights issued pursuant to this section, [section 3109.11](#) or [3109.12 of the Revised Code](#), or any other provision of the Revised Code, the 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)(1) A parent who receives an order for active military service in the uniformed services and who is subject to a parenting time order may apply to the court for any of the following temporary orders for the period extending from the date of the parent's departure to the date of return:

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

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

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

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

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

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

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

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

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

(O) 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) "Active military service" and "uniformed services" have the same meanings as in [section 3109.04 of the Revised Code](#).

(3) “Confidential law enforcement investigatory record” has the same meaning as in [section 149.43 of the Revised Code](#).

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

(5) “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](#).

CREDIT(S)

(2011 H 121, eff. 6-9-11; 2004 H 11, eff. 5-18-05; 2000 S 180, eff. 3-22-01; 1997 H 408, eff. 10-1-97; 1996 H 274, eff. 8-8-96; 1991 H 155, eff. 7-22-91; 1990 S 3, H 15)

[Notes of Decisions \(430\)](#)

R.C. § 3109.051, OH ST § 3109.051

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Baldwin's Ohio Revised Code Annotated
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Chapter 3109. Children (Refs & Annos)
Parental Rights and Responsibilities

R.C. § 3109.052

3109.052 Mediation order; report

Currentness

(A) If a proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of a child involves one or more children, if the parents of the children do not agree upon an appropriate allocation of parental rights and responsibilities for the care of their children or do not agree upon a specific schedule of parenting time for their children, the court may order the parents to mediate their differences on those matters in accordance with mediation procedures adopted by the court by local rule. When the court determines whether mediation is appropriate in any proceeding, it shall consider whether either parent previously 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, whether either parent previously has been convicted of or pleaded guilty to an 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, and whether either parent 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 either 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, the court may order mediation only if the court determines that it is in the best interests of the parties to order mediation and makes specific written findings of fact to support its determination.

If a court issues an order pursuant to this division requiring mediation, it also may order the parents to file a mediation report within a specified period of time and order the parents to pay the cost of mediation, unless either or both of the parents file a motion requesting that the court waive that requirement. Upon the filing of a motion requesting the waiver of that requirement, the court, for good cause shown, may waive the requirement that either or both parents pay the cost of mediation or may require one of the parents to pay the entire cost of mediation. Any mediation procedures adopted by local court rule for use under this division shall include, but are not limited to, provisions establishing qualifications for mediators who may be employed or used and provisions establishing standards for the conduct of the mediation.

(B) If a mediation order is issued under division (A) of this section and the order requires the parents to file a mediation report, the mediator and each parent who takes part in mediation in accordance with the order jointly shall file a report of the results of the mediation process with the court that issued the order under that division. A mediation report shall indicate only whether agreement has been reached on any of the issues that were the subject of the mediation, and, if agreement has been reached, the content and details of the agreement. No mediation report shall contain any background information concerning the mediation process or any information discussed or presented in the process. The court shall consider the mediation report when it allocates parental rights and responsibilities for the care of children under [section 3109.04 of the Revised Code](#) and when it establishes a specific schedule of parenting time under [section 3109.051 of the Revised Code](#). The court is not bound by the mediation report and shall consider the best interest of the children when making that allocation or establishing the parenting time schedule.

(C) If a mediation order is issued under division (A) of this section, the mediator shall not be made a party to, and shall not be called as a witness or testify in, any action or proceeding, other than a criminal, delinquency, child abuse, child neglect, or dependent child action or proceeding, that is brought by or against either parent and that pertains to the mediation process, to any information discussed or presented in the mediation process, to the allocation of parental rights and responsibilities for the care of the parents' children, or to the awarding of parenting time rights in relation to their children. The mediator shall not be made a party to, or be called as a witness or testify in, such an action or proceeding even if both parents give their prior consent to the mediator being made a party to or being called as a witness or to testify in the action or proceeding.

(D) Division (A) of this section does not apply to either of the following:

(1) Any proceeding, or the use of mediation in any proceeding that is not a proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of a child;

(2) The use of mediation in any proceeding for divorce, dissolution, legal separation, annulment, or the allocation of parental rights and responsibilities for the care of a child, in relation to issues other than the appropriate allocation of parental rights and responsibilities for the care of the parents' children and other than a specific parenting time schedule for the parents' children.

CREDIT(S)

(2000 S 180, eff. 3-22-01; 1990 S 3, eff. 4-11-91)

[Notes of Decisions \(2\)](#)

R.C. § 3109.052, OH ST § 3109.052

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R.C. § 3109.053

3109.053 Mandatory parenting classes and counseling as
condition of allocation of parental rights and responsibilities

Currentness

In any divorce, legal separation, or annulment proceeding and in any proceeding pertaining to the allocation of parental rights and responsibilities for the care of a child, the court may require, by rule or otherwise, that the parents attend classes on parenting or other related issues or obtain counseling before the court issues an order allocating the parental rights and responsibilities for the care of the minor children of the marriage. If a court in any proceeding requires parents to attend classes on parenting or other related issues or to obtain counseling, the court may require that the parents' children attend the classes or counseling with the parents. If the court orders the parents to attend classes or obtain counseling, the court shall impose the cost of the classes and counseling on, and may allocate the costs between, the parents, except that if the court determines that both parents are indigent, the court shall not impose the cost of the classes or counseling on the parents.

CREDIT(S)

(2000 H 537, eff. 10-5-00; 1996 H 368, eff. 9-10-96)

R.C. § 3109.053, OH ST § 3109.053
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R.C. § 3109.06

3109.06 Certification to juvenile court

Effective: June 17, 2010

[Currentness](#)

Except as provided in [division \(K\) of section 2301.03 of the Revised Code](#), any court, other than a juvenile court, that has jurisdiction in any case respecting the allocation of parental rights and responsibilities for the care of a child under eighteen years of age and the designation of the child's place of residence and legal custodian or in any case respecting the support of a child under eighteen years of age, may, on its own motion or on motion of any interested party, with the consent of the juvenile court, certify the record in the case or so much of the record and such further information, in narrative form or otherwise, as the court deems necessary or the juvenile court requests, to the juvenile court for further proceedings; upon the certification, the juvenile court shall have exclusive jurisdiction.

In cases in which the court of common pleas finds the parents unsuitable to have the parental rights and responsibilities for the care of the child or children and unsuitable to provide the place of residence and to be the legal custodian of the child or children, consent of the juvenile court shall not be required to such certification. This section applies to actions pending on August 28, 1951.

In any case in which a court of common pleas, or other court having jurisdiction, has issued an order that allocates parental rights and responsibilities for the care of minor children and designates their place of residence and legal custodian of minor children, has made an order for support of minor children, or has done both, the jurisdiction of the court shall not abate upon the death of the person awarded custody but shall continue for all purposes during the minority of the children. The court, upon its own motion or the motion of either parent or of any interested person acting on behalf of the children, may proceed to make further disposition of the case in the best interests of the children and subject to [sections 3109.42 to 3109.48 of the Revised Code](#). If the children are under eighteen years of age, it may certify them, pursuant to this section, to the juvenile court of any county for further proceedings. After certification to a juvenile court, the jurisdiction of the court of common pleas, or other court, shall cease, except as to any payments of spousal support due for the spouse and support payments due and unpaid for the children at the time of the certification.

Any disposition made pursuant to this section, whether by a juvenile court after a case is certified to it, or by any court upon the death of a person awarded custody of a child, shall be made in accordance with [sections 3109.04 and 3109.42 to 3109.48 of the Revised Code](#). If an appeal is taken from a decision made pursuant to this section that allocates parental rights and responsibilities for the care of a minor child and designates the child's place of residence and legal custodian, the court of appeals shall give the case calendar priority and handle it expeditiously.

CREDIT(S)

(2010 H 10, eff. 6-17-10; 1999 H 191, eff. 10-20-99; 1990 S 3, eff. 4-11-91; 1990 H 514; 1983 H 93; 1953 H 1; GC 8005-6; Source--GC 8034-1)

[Notes of Decisions \(31\)](#)

R.C. § 3109.06, OH ST § 3109.06

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R.C. § 3109.07

3109.07 Appeal to the court of appeals

[Currentness](#)

An appeal to the court of appeals may be had pursuant to the Rules of Appellate Procedure and, to the extent not in conflict with those rules, Chapter 2505. of the Revised Code.

CREDIT(S)

(1986 H 412, eff. 3-17-87; 129 v 291; 1953 H 1; GC 8005-7; Source--GC 8035)

[Notes of Decisions \(9\)](#)

R.C. § 3109.07, OH ST § 3109.07

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R.C. § 3109.08

3109.08 Release of dower rights--Repealed

Currentness

CREDIT(S)

(1973 S 1, eff. 1-1-74; 130 v S 193)

R.C. § 3109.08, OH ST § 3109.08

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