

HOUSE BILL NO. HB0071

Child custody.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to custody and visitation; revising terms;
2 providing definitions; conforming provisions; and providing
3 for an effective date.

4

5 *Be It Enacted by the Legislature of the State of Wyoming:*

6

7 **Section 1.** W.S 20-2-119 is created to read:

8

9 **20-2-119. Definitions.**

10

11 (a) As used in this title:

12

13 (i) "Joint legal decision making" means both
14 parents share legal decision making and neither parent's
15 rights or responsibilities are superior except with respect
16 to specified decisions as set forth by a court order;

1

2 (ii) "Legal decision making" means the right and
3 responsibility to make all nonemergency decisions for a
4 child including those regarding education, health care,
5 religious training and personal care decisions;

6

7 (iii) "Parental responsibilities" means legal
8 decision making and parenting time;

9

10 (iv) "Parenting time" means the schedule
11 detailing when each parent has access to a child and is
12 responsible for providing the child with food, clothing and
13 shelter and making routine decisions concerning the child's
14 care;

15

16 (v) "Sole legal decision making" means one (1)
17 parent has the legal right and responsibility to conduct
18 legal decision making for a child.

19

20 **Section 2.** W.S 20-2-201(b) through (e), (g), (h) and
21 by creating a new subsection (j), 20-2-202(a)(intro), (i)
22 and (ii), 20-2-203(a), (b), (c)(intro) and (d), 20-2-204,
23 20-2-205(a) through (e), 20-2-304(a)(intro), (b) and (d),

1 20-2-305(a) through (c) and (e) through (g),
2 20-2-307(b) (vii) and (xii), 20-2-316, 20-2-403(a) (intro)
3 and (d), 20-2-406(a) (vii), 20-6-104(a) (vi),
4 20-6-106(m) (xv), 20-6-108(a) (iii) and (b), 20-7-101(a) and
5 (d) and 20-7-102(a) and (c) are amended to read:

6

7

ARTICLE 2

8

PARENTAL RESPONSIBILITIES

9

10 **20-2-201. Disposition and maintenance of children in**
11 **decree or order; access to records.**

12

13 (b) In any proceeding in which ~~the custody of a child~~
14 ~~is~~ parental responsibilities are at issue the court shall
15 not prefer one (1) parent ~~as a custodian~~ solely because of
16 gender.

17

18 (c) The court shall consider evidence of spousal
19 abuse or child abuse as being contrary to the best interest
20 of the children. If the court finds that family violence
21 has occurred, the court shall make ~~arrangements for~~
22 ~~visitation~~ a parenting time order that best protects the
23 children and the abused spouse from further harm.

1

2 (d) The court shall order ~~custody~~ parental
3 responsibilities in well defined terms to promote
4 understanding and compliance by the parties. ~~Custody~~ An
5 order on parental responsibilities shall be crafted to
6 promote the best interests of the children, and may include
7 joint or sole legal decision making or any ~~combination of~~
8 ~~joint, shared or sole custody~~ allocation of parenting time.
9 In determining parental responsibilities, a court shall not
10 favor or disfavor any form of legal decision making or
11 parenting time.

12

13 (e) Unless otherwise ordered by the court, ~~the~~
14 ~~nonecustodial~~ each parent shall have the same right of
15 access ~~as the parent awarded custody~~ to any records
16 relating to the child of the parties, including school
17 records, activities, teachers and teachers' conferences as
18 well as medical and dental treatment providers and mental
19 health records.

20

21 (g) At anytime a court is considering ~~the custody or~~
22 ~~visitation rights~~ parental responsibilities of a service

1 member, as defined by W.S. 20-2-205, the court shall comply
2 with W.S. 20-2-205.

3
4 (h) A court finding of physical placement of a child
5 in a child support order shall not be considered a
6 disposition of ~~custody~~ parental responsibilities under this
7 section.

8
9 (j) A parent with legal decision making
10 responsibility for a child shall be considered to have
11 legal custody of the child for purposes of interpreting the
12 Wyoming statutes, Wyoming rules and federal law.

13
14 **20-2-202. Parenting time.**

15
16 (a) The court may order ~~visitation~~ parenting time as
17 it deems in the best interests of each child and the court
18 shall:

19
20 (i) Order ~~visitation~~ parenting time in enough
21 detail to promote understanding and compliance;

1 (ii) Provide for the allocation of the costs of
2 transporting each child for purposes of ~~visitation~~
3 parenting time;

4
5 **20-2-203. Jurisdiction for enforcement and**
6 **modification.**

7
8 (a) A court in this state which enters a ~~custody~~
9 parental responsibilities order under W.S. 20-2-201 has
10 continuing subject matter jurisdiction to enforce or modify
11 the decree concerning ~~the care, custody and visitation of~~
12 parental responsibilities for the children as the
13 circumstances of the parents and needs of the child
14 require, subject to the provisions of the Uniform Child
15 Custody Jurisdiction and Enforcement Act. A service
16 member's temporary duty, deployment or mobilization, as
17 defined in W.S. 20-2-205, shall not alter any court's
18 continuing jurisdiction under this section. A court which
19 has jurisdiction to enforce or modify an order under this
20 section may decline to exercise its jurisdiction if it
21 finds it is an inconvenient forum under the circumstances
22 of the case and that the court which entered the original
23 order is a more appropriate forum and has jurisdiction as

1 set forth in the Uniform Child Custody Jurisdiction and
2 Enforcement Act.

3
4 (b) A court in any county in Wyoming in which the
5 child has lived with his parents, a parent or a person
6 acting as a parent for six (6) consecutive months
7 immediately prior to commencement of the ~~custody~~parental
8 responsibilities proceeding may assert subject matter
9 jurisdiction and adjudicate any proceedings involving the
10 child. Periods of temporary absence of any of the named
11 persons shall be included as part of the six (6) month
12 period.

13
14 (c) Any party seeking to enforce or modify a ~~custody~~
15 parental responsibilities order pursuant to this section
16 shall attach a certified copy of the ~~custody~~ order to the
17 petition to be enforced or modified. A certified copy of ~~an~~
18 a parental responsibilities order entered by a Wyoming
19 court ~~providing for the care, custody or visitation of~~
20 ~~children~~ may be filed in the office of the clerk of the
21 district court of any county in this state in which either
22 parent resides if neither parent resides in the county of
23 original jurisdiction. The district court for the county in

1 which the order is filed has jurisdiction to enforce the
2 order, provided:

3
4 (d) In any proceeding to enforce or modify ~~an~~a
5 parental responsibilities order, ~~concerning the care,~~
6 ~~custody and visitation of children,~~ any required notice or
7 pleading shall be served as provided by the Wyoming Rules
8 of Civil Procedure.

9
10 **20-2-204. Enforcement and modification.**

11
12 (a) Either parent may petition to enforce or modify
13 any court order regarding ~~custody and visitation~~ parental
14 responsibilities.

15
16 (b) A court having jurisdiction under W.S. 20-2-203
17 may, upon appropriate motion of a party, require a parent
18 to appear before the court and show just cause why the
19 parent should not be held in contempt, upon a showing that
20 the parent has willfully violated an order concerning ~~the~~
21 ~~care, custody and visitation of~~ parental responsibilities
22 for the children. In order to enforce and require future
23 compliance with an order the court may find that the parent

1 is in contempt of court, award attorney's fees, costs and
2 any other relief as the court may deem necessary under the
3 circumstances to the party aggrieved by the violation of an
4 order.

5
6 (c) A court having jurisdiction may modify an order
7 concerning ~~the care, custody and visitation of the children~~
8 parental responsibilities if there is a showing by either
9 parent of a material change in circumstances since the
10 entry of the order in question and that the modification
11 would be in the best interests of the children pursuant to
12 W.S. 20-2-201(a). In any proceeding in which a parent seeks
13 to modify ~~an order concerning child custody or visitation a~~
14 parental responsibilities order, proof of repeated,
15 unreasonable failure by ~~the custodial parent to allow~~
16 ~~visitation~~ one (1) parent to allow parenting time to the
17 other parent in violation of an order may be considered as
18 evidence of a material change of circumstances. Any
19 modification under this subsection shall be subject to the
20 limitations and requirements of W.S. 20-2-205.

21

1 20-2-205. Temporary military duty; definitions;
2 modification of orders; parenting time assignment;
3 electronic evidence.
4

5 (a) When a service member who has ~~custody or~~
6 ~~visitation of~~ parental responsibilities for a child
7 receives temporary duty, deployment or mobilization orders
8 from the military which require the service member to move
9 a substantial distance from the service member's residence
10 or otherwise have a temporary but material effect on the
11 service member's ability to exercise ~~custody or visitation~~
12 parental responsibilities:
13

14 (i) Any order establishing ~~the terms of custody~~
15 ~~or visitation in place~~ parental responsibilities at the
16 time the service member receives the temporary duty,
17 deployment or mobilization orders may only be temporarily
18 modified so as to provide for the child's best interests;
19

20 (ii) Any order modifying an existing ~~custody or~~
21 ~~visitation~~ parental responsibilities order that is
22 determined necessary due to the temporary duty, deployment
23 or mobilization of a service member shall specify that the

1 service member's military service is the basis for the
2 order and shall further state that it is entered by the
3 court solely as a temporary order;

4
5 (iii) In issuing any ~~temporary custody or~~
6 ~~visitation~~ parental responsibilities order under this
7 section, the court shall consider whether the temporary
8 order should automatically terminate;

9
10 (iv) For purposes of determining ~~custody and~~
11 ~~visitation~~ parental responsibilities after the return of a
12 service member and upon motion under W.S. 20-2-204, the
13 temporary duty, mobilization or deployment of the service
14 member, and the resulting temporary disruption to a child's
15 schedule, shall be neutral factors in determining a
16 material change in circumstances and shall not, alone,
17 constitute a material change in circumstances warranting a
18 permanent modification of ~~custody or visitation rights~~
19 parental responsibilities.

20
21 (b) If a service member with ~~visitation rights~~ court
22 ordered parenting time receives temporary duty, deployment
23 or mobilization orders that require the service member to

1 move a substantial distance from the service member's
2 residence or otherwise have a material effect on the
3 service member's ability to exercise ~~visitation rights~~
4 parenting time, the court may, upon motion of the service
5 member, order that the service member's ~~visitation rights~~
6 parenting time, or a portion thereof, may be exercised by a
7 family member with a close and substantial relationship to
8 the minor child for the duration of the service member's
9 absence, if the alternate visitation is in the child's best
10 interest.

11

12 (c) Upon motion of a service member who has received
13 temporary duty, deployment or mobilization orders, the
14 court shall, for good cause shown, expedite any pending
15 hearing in ~~custody and visitation~~ parental responsibility
16 matters when the military duties of the service member have
17 a material effect on the service member's ability, or
18 anticipated ability, to appear in person at a regularly
19 scheduled hearing.

20

21 (d) Upon motion of a service member who has received
22 temporary duty, deployment or mobilization orders together
23 with reasonable advanced notice and proof that the service

1 member's military duties have a material effect on his
2 ability to appear in person, the court may allow the
3 service member to present testimony and evidence by
4 electronic means in pending ~~custody and visitation~~ parental
5 responsibility matters. The phrase "electronic means"
6 includes communication by telephone, video teleconference
7 or the Internet.

8
9 (e) Nothing in this section shall alter the duty of
10 the court to consider the best interest of the child in
11 deciding ~~custody or visitation~~ parental responsibility
12 matters.

13
14 **20-2-304. Presumptive child support.**

15
16 (a) Child support shall be expressed in a specific
17 dollar amount. The following child support tables shall be
18 used to determine the total child support obligation
19 considering the combined income of both parents. The
20 appropriate table is based upon the number of children for
21 whom the parents share joint legal responsibility and for
22 whom support is being sought. After the combined net income
23 of both parents is determined it shall be used in the first

1 column of the tables to find the appropriate line from
2 which the total child support obligation of both parents
3 can be computed from the third column. The child support
4 obligation computed from the third column of the tables
5 shall be divided between the parents in proportion to the
6 net income of each. The ~~noncustodial parent's~~ share of the
7 joint child support obligation belonging to the parent with
8 the minority of yearly overnight parenting time shall be
9 paid to the ~~custodial~~ other parent through the clerk as
10 defined by W.S. 20-6-102(a)(x):

11

12 (b) Where the combined income of the ~~custodial parent~~
13 ~~and the noncustodial parent~~ parents is less than eight
14 hundred forty-six dollars (\$846.00), the support obligation
15 of the ~~noncustodial~~ parent with the minority of yearly
16 overnight parenting time shall be twenty-two percent (22%)
17 of net income for one (1) child and twenty-five percent
18 (25%) of net income for two (2) or more children, but in no
19 case shall the support obligation be less than fifty
20 dollars (\$50.00) per month for each family unit in which
21 there are children to whom the ~~noncustodial~~ parent with the
22 minority of yearly overnight parenting time owes a duty of
23 support.

1

2 (d) When each parent has ~~physical custody of a~~
3 majority of yearly overnight parenting time for at least
4 one (1) of the children, a joint presumptive support
5 obligation for all of the children shall be determined by
6 use of the tables. The joint presumptive support amount
7 shall be divided by the number of children to determine the
8 presumptive support obligation for each child, which amount
9 shall then be allocated to each parent based upon the
10 number of those children ~~in the physical custody of~~ for
11 whom that parent has the majority of yearly overnight
12 parenting time. That sum shall be multiplied by the
13 percentage that the other parent's net income bears to the
14 total net income of both parents. The obligations so
15 determined shall then be offset, with the parent owing the
16 larger amount paying the difference between the two (2)
17 amounts to the other parent as a net child support
18 obligation.

19

20 **20-2-305. Abatements.**

21

22 (a) Unless otherwise ordered by the court, child
23 support shall abate by one-half (1/2) of the daily support

1 obligation for each day the ~~noncustodial~~ parent with the
2 minority of yearly overnight parenting time has ~~physical~~
3 ~~custody of~~ parenting time with the child for whom support
4 is due, provided that ~~the noncustodial~~ parent has ~~custody~~
5 ~~of~~ parenting time with the child for fifteen (15) or more
6 consecutive days. The daily support obligation shall be
7 computed by multiplying the monthly child support
8 obligation by twelve (12) and dividing the product by three
9 hundred and sixty-five (365). For the purposes of
10 computing abatement and determining whether the
11 ~~noncustodial~~ parent with the minority of yearly overnight
12 parenting time has met the consecutive day requirement of
13 this subsection, overnight and weekend visits with the
14 ~~custodial~~ parent with the majority of yearly overnight
15 parenting time during the period for which abatement is
16 claimed shall be disregarded.

17

18 (b) The ~~noncustodial~~ parent with the minority of
19 yearly overnight parenting time shall file any claim for
20 child support abatement with the clerk of the court within
21 thirty (30) days after the period for which abatement is
22 claimed and shall pay to the clerk the sum of ten dollars
23 (\$10.00). The clerk shall mail a copy of the claim to the

1 ~~eustodial~~other parent at the address provided to the clerk
2 by ~~the custodial~~the parent filing the claim.

3
4 (c) The ~~eustodial~~ parent with the majority of yearly
5 overnight parenting time shall have the right to object to
6 any claim for abatement made by the ~~noncustodial~~other
7 parent. The ~~eustodial parent's~~ right to object shall be
8 limited solely to issues related to the legitimacy or
9 accuracy of the abatement claim. The ~~eustodial~~objecting
10 parent shall file any objection to the abatement claim with
11 the clerk of court within thirty (30) days of the date the
12 clerk mailed the notice of claim for abatement and shall
13 pay to the clerk a fee of ten dollars (\$10.00). The
14 ~~eustodial~~ parent who may object to a claim may approve the
15 abatement claim prior to the expiration of the thirty (30)
16 day time period for objections by filing notice of
17 immediate approval with the clerk of the court, and no
18 filing fee shall be assessed for filing of such notice of
19 immediate approval. The clerk shall mail a copy of the
20 objection or notice of immediate approval to the
21 ~~noncustodial~~ parent making the claim at the address
22 provided to the clerk by that parent.

23

1 (e) The clerk shall notify the court of claims and
2 objections not barred and of any arrearage owed by the
3 ~~noncustodial~~ parent with the minority of yearly overnight
4 parenting time, and the court shall promptly resolve the
5 differences, with or without a hearing, and prepare and
6 file an appropriate order.

7
8 (f) Abatement amounts shall be applied to any current
9 child support due and then to any arrearage balance owed to
10 ~~the custodial~~ a parent for past-due child support. If there
11 is no arrearage and no objection was filed within the
12 thirty (30) day period for objections, or if there is no
13 arrearage and a notice of immediate approval was filed
14 prior to the expiration of the thirty (30) day period for
15 objections, the abatement amount shall be reduced from the
16 next scheduled payment of child support.

17
18 (g) In all cases in which the ~~custodial~~ parent with
19 the majority of yearly overnight parenting time has filed
20 an objection to a claim for abatement within the thirty
21 (30) day time period, the ~~noncustodial~~ parent who filed the
22 abatement claim shall have the right to respond to the
23 objection. The ~~noncustodial parent's~~ right to respond to

1 the objection shall be limited solely to issues raised in
2 the objection. ~~The noncustodial parent shall file any~~
3 ~~response~~ and shall be filed with the clerk of the court
4 within fifteen (15) days of the date the clerk mailed the
5 objection to the ~~noncustodial~~ responding parent. ~~, and~~ No
6 filing fee shall be assessed. The clerk shall mail a copy
7 of the response to the ~~custodial~~ objecting parent at the
8 address provided to the clerk by the ~~custodial~~ objecting
9 parent in the abatement claim. The court shall fully
10 consider the abatement claim ~~of the noncustodial parent~~
11 regardless of whether a response to the objection was
12 filed.

13

14 **20-2-307. Presumptive child support to be followed;**
15 **deviations by court.**

16

17 (b) A court may deviate from the presumptive child
18 support established by W.S. 20-2-304 upon a specific
19 finding that the application of the presumptive child
20 support would be unjust or inappropriate in that particular
21 case. In any case where the court has deviated from the
22 presumptive child support, the reasons therefor shall be
23 specifically set forth fully in the order or decree. In

1 determining whether to deviate from the presumptive child
2 support established by W.S. 20-2-304, the court shall
3 consider the following factors:

4
5 (vii) The cost of transportation of the child to
6 and from ~~visitation~~ parenting time;

7
8 (xii) Whether or not either parent has violated
9 any provision of the divorce decree, including ~~visitation~~
10 parenting time provisions, if deemed relevant by the court;
11 and

12
13 **20-2-316. Adjustment of child support for a disabled**
14 **adult child.**

15
16 (a) A ~~noncustodial~~ parent may petition for an
17 adjustment of child support for a child who has reached the
18 age of majority but qualifies under W.S. 14-2-204(a)(i) to
19 continue to receive support from ~~the noncustodial~~ the
20 petitioning parent. The court shall allow the adjustment in
21 cases where the ~~noncustodial~~ petitioning parent proves by a
22 preponderance of the evidence that an adjustment of the

1 child support order is in the best interest of the child
2 who has reached the age of majority.

3
4 (b) A ~~noncustodial~~ parent petitioning the court for
5 an adjustment under this section shall adhere to the
6 requirements of W.S. 20-2-311.

7
8 **20-2-403. Department of family services; duties of**
9 **department and parent; rules and regulations.**

10
11 (a) In IV-D cases where ~~the noncustodial~~a parent is
12 required to provide health care coverage pursuant to a
13 child support order, and for whom the employer is known,
14 the department shall enforce the provision of court ordered
15 health care coverage for dependent children, where
16 appropriate, through the use of the national medical
17 support notice as provided by federal or state law, unless
18 alternate coverage is allowed by any order of the court or
19 tribunal, including:

20
21 (d) The ~~custodial~~ parent with applicable legal
22 decision making responsibility for a child, in consultation
23 with the department, shall promptly select from available

1 insurance plan options when the insurance plan
2 administrator reports that there is more than one (1)
3 option available under the plan, and shall take into
4 consideration the income withholding of, and costs to, the
5 obligor.

6
7 **20-2-406. Definitions.**

8
9 (a) As used in this act:

10
11 (vii) "National medical support notice" means
12 the federally approved national medical support notice used
13 to enforce the provision of health care coverage in IV-D
14 cases for children of ~~noncustodial~~ parents without legal
15 decision making responsibility for a child who are required
16 to provide health care coverage through an
17 employment-related group health plan in accordance with a
18 child support order;

19
20 **20-6-104. Child support enforcement services**
21 **generally.**

1 (a) The services in intrastate and interstate
2 situations provided under the child support enforcement
3 program subject to or by appropriate orders of the court
4 shall include:

5
6 (vi) The location of persons, upon request of
7 ~~the noncustodial~~ a parent, in cases of denial or
8 interference with court ordered ~~visitation~~ parenting time
9 or in cases in which ~~the custodial~~ a parent has removed the
10 child from the state and failed to give notice of change of
11 address in violation of a court order;

12
13 **20-6-106. Powers and duties of department regarding**
14 **collection of support.**

15
16 (m) The department may:

17
18 (xv) Appear in any judicial proceeding on behalf
19 of the state when any obligee or obligor makes application
20 for IV-D services, in order to establish, enforce or modify
21 a child support order, medical support order or a spousal
22 support order, if the spousal support issue is considered
23 in conjunction with the child support or medical support

1 issues, provided the department shall not be required to
2 participate in ~~visitation, custody~~ matters of parental
3 responsibilities, property settlement or other issues
4 between the parties. The department shall certify that the
5 obligee, obligor or child has applied for or is receiving
6 Title IV-D services. Initial pleadings filed by the
7 department or its contractors shall state that the action
8 is being taken pursuant to this act or Title IV-D;

9
10 **20-6-108. State parent locator service.**

11
12 (a) The department shall act as a state parent
13 locator service to assist in:

14
15 (iii) The location of persons, upon request of
16 ~~the noncustodial~~ a parent, in cases of denial or
17 interference with court ordered ~~visitation~~ parenting time
18 or in cases in which ~~the custodial~~ a parent has removed the
19 child from the state and failed to give notice of change of
20 address in violation of a court order.

21
22 (b) The department may request from state, county and
23 local agencies all information and assistance necessary to

1 carry out the purposes of this section. All state, county
2 and city agencies, officers and employees shall cooperate
3 in the location of parents who have violated ~~custody or~~
4 ~~visitation orders~~ an order on parental responsibilities or
5 abandoned, deserted or failed to support their children and
6 shall supply the department with all information available
7 relative to the location, income and property of the
8 parents.

9
10 **20-7-101. Establishing grandparents' visitation**
11 **rights.**

12
13 (a) A grandparent may bring an original action
14 against any person having ~~custody of~~ parental
15 responsibilities for the grandparent's minor grandchild to
16 establish reasonable visitation rights to the child. If
17 the court finds, after a hearing, that visitation would be
18 in the best interest of the child and that the rights of
19 the child's parents are not substantially impaired, the
20 court shall grant reasonable visitation rights to the
21 grandparent. In any action under this section for which
22 the court appoints a guardian ad litem, the grandparent

1 shall be responsible for all fees and expenses associated
2 with the appointment.

3
4 (d) In any action or proceeding in which visitation
5 rights have been granted to a grandparent under this
6 section, the court may for good cause upon petition of the
7 person having ~~custody~~ parental responsibilities for the
8 child or who is the guardian of the child, revoke or amend
9 the visitation rights granted to the grandparent.

10
11 **20-7-102. Establishing primary caregivers' visitation**
12 **rights.**

13
14 (a) With notice or reasonable efforts to provide
15 notice to the ~~noncustodial parent~~ parents, a person may
16 bring an original action against any person having ~~custody~~
17 ~~of~~ parental responsibilities for the child to establish
18 reasonable visitation rights to the child if the person
19 bringing the original action has been the primary caregiver
20 for the child for a period of not less than six (6) months
21 within the previous eighteen (18) months. If the court
22 finds, after a hearing, that visitation would be in the
23 best interest of the child and that the rights of the

1 child's parents are not substantially impaired, the court
2 shall grant reasonable visitation rights to the primary
3 caregiver. In any action under this section for which the
4 court appoints a guardian ad litem, the person bringing the
5 original action under this section shall be responsible for
6 all fees and expenses associated with the appointment.

7
8 (c) In any action or proceeding in which visitation
9 rights have been granted to a primary caregiver under this
10 section, the court may for good cause upon petition of the
11 person having ~~custody~~ parental responsibilities for the
12 child or who is the guardian of the child, revoke or amend
13 the visitation rights granted to the primary caregiver.

14
15 **Section 3.** W.S. 20-6-102(a)(i) is repealed.

16
17 **Section 4.** This act is effective July 1, 2018.

18
19 (END)