

Top Custody Considerations in Utah

Legal Guide by Attorney Heather Seegmiller

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Outlines the statutory provisions that Utah judges use to guide them through child custody considerations. In Utah, custody is based on many factors, and judges weigh the various factors to decide custody. Some factors are given more weight than others, depending on the facts of the case.

1. **Utah Code Annotated 30-3-10(2)**

This section of the Utah Code outlines the custody factors a judge must give consideration to when making a custody determination. The statutory section states as follows: "In determining any form of custody and parent-time under Subsection (1), the court shall consider the best interest of the child and may consider among other factors the court finds relevant, the following for each parent:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, the parent, or a household member of the parent;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the child, including the child's: (i) physical needs; (ii) emotional needs; (iii) educational needs; (iv) medical needs; and (v) any special needs;

(c) the parent's capacity and willingness to function as a parent, including: (i) parenting skills; (ii) co-parenting skills, including: (A) ability to appropriately communicate with the other parent; (B) ability to encourage the sharing of love and affection; and (C) willingness to allow frequent and continuous contact between the child and the other parent, except that, if the court determines that the parent is acting to protect the child from domestic violence, neglect, or abuse,

the parent's protective actions may be taken into consideration; and (iii) ability to provide personal care rather than surrogate care;

(d) in accordance with Subsection (10), the past conduct and demonstrated moral character of the parent;

(e) the emotional stability of the parent;

(f) the parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes;

(g) whether the parent has intentionally exposed the child to pornography or material harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201;

(h) the parent's reasons for having relinquished custody or parent-time in the past;

(i) duration and depth of desire for custody or parent-time;

(j) the parent's religious compatibility with the child;

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(l) the child's interaction and relationship with step-parents, extended family members of other individuals who may significantly affect the child's best interests;

(m) who has been the primary caretaker of the child;

(n) previous parenting arrangements in which the child has been happy and well-adjusted in the home, school, and community;

(o) the relative benefit of keeping siblings together;

(p) the stated wishes and concerns of the child, taking into consideration the child's cognitive ability and emotional maturity;

(q) the relative strength of the child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the child; and

(r) any other factor the court finds relevant."

2. **Utah Code Annotated 30-3-10.2**

This rule outlines additional factors the court must consider when determining whether the best interest of a child will be served by ordering joint legal or joint physical custody. The factors are:

"(a) whether the physical, psychological, and emotional needs and development of the child will benefit from joint legal custody or joint physical custody or both;

(b) the ability of the parents to give first priority to the welfare of the child and reach shared decisions in the child's best interest;

(c) co-parenting skills, including: (i) ability to appropriately communicate with the other parent; (ii) ability to encourage the sharing of love and affection; and (iii) willingness to allow frequent and continuous contact between the child and the

other parent, except that, if the court determines that the parent is acting to protect the child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and

- (d) whether both parents participated in raising the child before the divorce;
- (e) the geographical proximity of the homes of the parents;
- (f) the preference of the child if the child is of sufficient age and capacity to reason so as to form an intelligent preference as to joint legal custody or joint physical custody or both;
- (g) the maturity of the parents and their willingness and ability to protect the child from conflict that may arise between the parents;
- (h) the past and present ability of the parents to cooperate with each other and make decisions jointly; and
- (i) any other factor the court finds relevant."

Additional resources provided by the author

I hope this has been helpful to you in deciding what information is important when strategizing your custody case in Utah.

- [Utah Code Annotated 30-3-10](#)
- [Utah Code Annotated 30-3-10.2](#)