

Appendix

A

RULE 48. Application.

Sup.R. 48 through 48.07 shall apply in all domestic relations and juvenile cases in the courts of common pleas where a court appoints a guardian ad litem to act in the best interest of a child.

RULE 48.01. Definitions.

As used in Sup.R. 48 through 48.07:

(A) Allocation of parental rights and responsibilities

References in this rule to cases involving “allocation of parental rights and responsibilities” shall also include those cases in which legal custody, parenting time, companionship, or visitation rights are at issue. “Allocation of parental rights and responsibilities, legal custody, parenting time, companionship, or visitation rights” has the same meaning as in R.C. 3109.04 and 3109.051.

(B) Attorney for the child

“Attorney for the child” means an attorney appointed to act as legal counsel for a child and advocate for the wishes of the child.

(C) Guardian ad litem

“Guardian ad litem” means an individual appointed to assist a court in its determination of the best interest of a child.

(D) Child

“Child” means:

- (1) A person under eighteen years of age;
- (2) A person who is older than eighteen years of age who is deemed a child until the person attains twenty-one years of age under R.C. 2151.011(B)(6) or 2152.02(C);
- (3) A child under R.C. 3109.04 or a disabled child under R.C.3119.86 who falls under the jurisdiction of a domestic relations or juvenile court.

RULE 48.02. Appointment of Guardian Ad Litem.

(A) Orders of appointment

Each court appointing a guardian ad litem under this rule shall enter an order of appointment. The order of appointment shall include statements regarding all of the following:

- (1) Whether it is a sole guardian ad litem appointment or a dual guardian ad litem and attorney appointment;
- (2) That unless otherwise specified by court rule, the appointment shall remain in effect until discharged by order of the court;
- (3) That the guardian ad litem shall be given notice of all hearings and proceedings and be provided a copy of all pleadings, motions, notices, and other documents filed in the case;
- (4) That the guardian ad litem report shall include the following language: "The guardian ad litem report shall be provided to the court, unrepresented parties, and legal counsel. Any other disclosure of the report must be approved in advance by the court. Unauthorized disclosure of the report may be subject to court action, including the penalties for contempt, which include fine and/or incarceration."
- (5) The rate or amount of compensation for the guardian ad litem in allocation of parental rights and responsibilities cases;
- (6) The terms and amount of any installment payments and deposits in allocation of parental rights and responsibilities cases.

(B) Limited scope of appointment

A court may appoint a guardian ad litem to address a specific issue or issues. A court shall include in the order of appointment the specific issue or issues to be addressed and a statement the guardian ad litem is relieved of the duties set forth in Sup.R. 48.03(D) that are not applicable to the specific issue or issues.

(C) Mandatory appointments in abuse, neglect, dependency, unruly, and delinquent cases

A court shall appoint a guardian ad litem in abuse, neglect, dependency, unruly, and delinquency cases as required by rule or statute.

(D) Separate appointments in abuse, neglect, dependency, unruly, and delinquency cases and cases of conflict

(1) A court shall appoint a separate attorney to represent a child in abuse, neglect, dependency, unruly, and delinquency cases in which the wishes of the child differ from the recommendations of the guardian ad litem.

(2) If an attorney who has been appointed to serve as both guardian ad litem and attorney for the child or any other party believes that a conflict exists in the dual appointment, the attorney or party shall immediately notify the court in writing with notice to the parties or affected agencies and request a separate appointment of a guardian ad litem and attorney for the child. The court shall make such additional appointment or appointments or order or orders to remedy the conflict. The court may also make such appointment or appointments on its own motion.

(E) Separate appointments in cases involving allocation of parental rights and responsibilities

If a court appoints a guardian ad litem in an allocation of parental rights and responsibilities case, the guardian ad litem shall be appointed only to represent the best interest of the child and shall not also be appointed as the attorney for the child.

(F) Discretionary appointments in allocation of parental rights and responsibilities, unruly, and delinquency cases

Unless a mandatory appointment is required by rule or statute, a court may make a discretionary appointment of a guardian ad litem in the allocation of parental rights and responsibilities, unruly, and delinquency cases. In making a discretionary appointment, a court should consider all of the circumstances of the case, including but not limited to all of the following factors:

- (1) Allegations of abuse and neglect of the child;
- (2) Consideration of extraordinary remedies, such as supervised visitation, terminating or suspending parenting time, or awarding custody or visitation to a non-parent;
- (3) Relocation that could substantially reduce the time of a child with a parent or sibling;
- (4) The wishes and concerns of the child;
- (5) Harm to the child from drug or alcohol abuse by the party;
- (6) Past or present child abduction or risk of future abduction;

- (7) Past or present family violence;
- (8) Past or present mental health issues of the child or a party;
- (9) Special physical, educational, or mental health needs of the child that require investigation or advocacy;
- (10) A high level of conflict;
- (11) Inappropriate adult influence or manipulation;
- (12) Interference with custody or parenting time;
- (13) A need for more information relevant to the best interests of the child;
- (14) A need to minimize the harm to the child from family separation or litigation;
- (15) Any other relevant factor.

(G) Reappointment

A court should consider reappointment of the same guardian ad litem for a specific child in any subsequent case determining the best interest of the child.

(H) Guardian ad litem fee determinations in cases involving allocation of parental rights and responsibilities

(1) A court appointing a guardian ad litem in a case involving allocation of parental rights and responsibilities shall make a determination of the ability of any party to pay a deposit for the fees and expenses to the guardian ad litem and may reconsider that determination at any time prior to conclusion of the case. In making this determination, the court shall consider all of the following:

- (a) The income, assets, liabilities, and financial circumstances of the parties, as demonstrated by an affidavit, testimony to the court, or evidence of qualification for any means-tested public assistance;
- (b) The complexity of the issues;
- (c) The anticipated expenses, including the travel of the guardian ad litem.

(2) At any time prior to the conclusion of a case, a guardian ad litem may submit a motion for payment. A guardian ad litem shall submit a motion for payment upon conclusion of the duties. Any motion shall itemize the duties performed, time expended, and costs and expenses incurred pursuant to Sup.R. 48.03(H)(1).

(3) In determining the allocation of guardian ad litem fees and expenses, a court shall consider any relevant factor, including any of the following:

- (a) The rate or amount of compensation of the guardian ad litem;
 - (b) The sources of compensation of the guardian ad litem, including the parties, any specialized funds allocated for payment of the guardian ad litem, or pro bono contribution of services by the guardian ad litem;
 - (c) The income, assets, liabilities, and financial circumstances of the parties, as demonstrated using an affidavit, testimony to the court, or evidence of qualification for any means-tested public assistance;
 - (d) The conduct of any party resulting in the increase of the guardian ad litem fees and expenses without just cause;
 - (e) The terms and amount of any installment payments.
- (4) Unless a hearing is requested by a party or the court within fourteen days after a motion for payment is filed, a court shall issue an order regarding payment of guardian ad litem fees and expenses approving or denying any portion of the requested fees and expenses and allocating payment to one or more of the parties as appropriate.

(I) Enforcement of payment

- (1) If the fees and expenses of a guardian ad litem exceed the deposits or installment payments ordered and made, a court may do any of the following:
- (a) Issue a lump-sum judgment against any party owing guardian ad litem fees and expenses at the time of the determination of fees or at any further proceedings regarding payment of fees;
 - (b) Enforce the payment of fees and expenses of the guardian ad litem through contempt of court proceedings;
 - (c) Enforce any order regarding the payment of guardian ad litem fees and expenses in any other manner authorized by law.
- (2) A court shall not delay or dismiss a proceeding solely because of the failure of a party to pay guardian ad litem fees and expenses required to be paid by the court.
- (3) The inability of a party to pay guardian ad litem fees and expenses ordered by a court shall not delay any final entry.

RULE 48.03. Responsibilities of Guardian Ad Litem.

(A) General responsibilities

The responsibilities of a guardian ad litem shall include, but are not limited to, the following:

- (1) Provide the court recommendations of the best interest of the child. Recommendations of the best interest of the child may be inconsistent with the wishes of the child or other parties.
- (2) Maintain independence, objectivity, and fairness, as well as the appearance of fairness, in dealings with parties and professionals, both in and out of the courtroom, and have no ex parte communications with the court regarding the merits of the case;
- (3) Act with respect and courtesy in the performance of the responsibilities of the guardian ad litem;
- (4) Attend any hearing relevant to the responsibilities of the guardian ad litem;
- (5) Upon becoming aware that the recommendations of the guardian ad litem differ from the wishes of the child, immediately notify the court in writing with notice to the parties or affected agencies. The court shall take action as it deems necessary.
- (6) If necessary, request timely court reviews and judicial intervention in writing with notice to the parties or affected agencies;
- (7) If the guardian ad litem is an attorney, file pleadings, motions, and other documents as appropriate and call, examine, and cross-examine witnesses pursuant to the applicable rules of procedure;
- (8) Be available to testify at any relevant hearing. Attorneys who are to serve as both guardian ad litem and attorney in any dual appointments shall comply with Rule 3.7 of the Rules of Professional Conduct.
- (9) If the guardian ad litem is not an attorney, avoid engaging in conduct that constitutes the unauthorized practice of law and be vigilant in performing the duties of the guardian ad litem;
- (10) If the guardian ad litem is not an attorney, request the court to appoint an attorney for the guardian ad litem to file pleadings, motions, and other documents as appropriate and call, examine, and cross-examine witnesses pursuant to the applicable rules of procedure. The court shall take action as it deems necessary.

(B) Conflicts of interest

(1) A guardian ad litem shall avoid any actual or apparent conflict of interest arising from any relationship or activity, including but not limited to those of employment or business or from professional or personal contacts with parties or others involved in the case. A guardian ad litem shall avoid self-dealing or associations that might directly or indirectly benefit except from compensation for services as a guardian ad litem.

(2) Upon becoming aware of any actual or apparent conflict of interest, a guardian ad litem shall immediately notify the court in writing. The court shall take action as it deems necessary.

(C) Satisfaction of training requirements

A guardian ad litem shall meet the qualifications and satisfy all pre-service and continuing education requirements of Sup.R. 48.04 and 48.05 and any local court rules governing guardians ad litem. A guardian ad litem shall do both of the following:

(1) Meet the qualifications for guardians ad litem for each court and promptly advise the court of any grounds for disqualification or any issues affecting the ability to serve;

(2) Provide the court documentation indicating compliance with pre-service and continuing educational requirements so the court may maintain the files required pursuant to Sup.R. 48.07. The documentation shall include information detailing the date, location, contents, and credit hours received for any relevant education.

(D) Duties of the Guardian ad Litem

Unless specifically relieved by the court, the duties of a guardian ad litem shall include, but are not limited to, the following:

(1) Become informed about the facts of the case and contact all relevant persons;

(2) Observe the child with each parent, foster parent, guardian or physical custodian;

(3) Interview the child, if age and developmentally appropriate, where no parent, foster parent, guardian, or physical custodian is present;

(4) Visit the child at the residence or proposed residence of the child in accordance with any standards established by the court;

(5) Ascertain the wishes and concerns of the child;

(6) Interview the parties, foster parents, guardians, physical custodian, and other significant individuals who may have relevant knowledge regarding the issues of the case. The guardian ad litem may require each individual to be interviewed without the presence of others. Upon request of the individual, the attorney for the individual may be present.

(7) Interview relevant school personnel, medical and mental health providers, child protective services workers, and court personnel and obtain copies of relevant records;

(8) Review pleadings and other relevant court documents in the case;

(9) Obtain and review relevant criminal, civil, educational, mental health, medical, and administrative records pertaining to the child and, if appropriate, the family of the child or other parties in the case;

(10) Request that the court order psychological evaluations, mental health or substance abuse assessments, or other evaluations or tests of the parties as the guardian ad litem deems necessary or helpful to the court;

(11) Review any necessary information and interview other persons as necessary to make an informed recommendation regarding the best interest of the child.

(E) Identification as guardian ad litem

A guardian ad litem shall immediately identify himself or herself as a guardian ad litem when contacting individuals and inform the individuals about the role of the guardian ad litem, including as an attorney if a dual appointment, the scope of appointment, and that documents and information obtained by the guardian ad litem may become part of court proceedings.

(F) Confidentiality

A guardian ad litem shall make no disclosures about a case or investigation, except to the parties and their legal counsel, in reports to the court, or as necessary to perform the duties of a guardian ad litem, including as a mandated reporter. The guardian ad litem shall maintain the confidential nature of personal identifiers, as defined in Sup.R. 44, and address where there are allegations of domestic violence or risk to the safety of a party or child. Upon application, the court may order disclosure of or access to the information necessary to challenge the truth of the information received from a confidential source. The court may impose conditions necessary to protect witnesses from potential harm.

(G) Timeliness

A guardian ad litem shall perform responsibilities in a prompt and timely manner.

(H) Record-keeping

- (1) A guardian ad litem shall keep accurate records of the time spent, services rendered, and expenses incurred in each case while performing the responsibilities of a guardian ad litem.
- (2) In allocation of parental rights and responsibilities cases, a guardian ad litem shall provide a monthly statement of fees and expenses to all parties.
- (3) A guardian ad litem shall file an itemized statement and accounting with the court and provide a copy to each party or other entity responsible for payment upon order of the court or upon the conclusion of those responsibilities.

RULE 48.04. Pre-Service Education.

(A) Pre-service education required for appointment

A guardian ad litem shall complete pre-service education provided by the Supreme Court, the Ohio Court Appointed Special Advocates (CASA) Guardian ad Litem Association, or with the approval of the appointing court, another provider.

(B) Pre-service education hours and topics

- (1) Pre-service education for guardians ad litem shall be twelve hours.
- (2) Of the twelve hours of pre-service education, six hours shall be obtained via a live education program.
- (3) The remaining six hours of pre-service education may be satisfied by online or live education, teaching, writing, mentoring, or field-training activities with approval by the appointing court.
- (4) Six hours of pre-service education shall include training on all the following topics:
 - (a) Basic human needs, stages of child development, and the impact of trauma;
 - (b) Communication skills, including but not limited to communication with children and adults, interviewing skills, methods of critical questioning, use of open-ended questions, understanding the perspective of a child, sensitivity, building trust, multicultural awareness, diversity, and confidentiality;
 - (c) Child abuse, neglect, dependency, unruliness, delinquency, and assessing risk and safety;
 - (d) Family and child issues, including but not limited to family dynamics, substance abuse and its effects, basic psychopathology for adults and children, and domestic violence and its effects, including assessing for lethality and safety;
 - (e) Legal processes, available community agencies and resources, methods of service, records checks, the role of a guardian ad litem in court, local resources and service practice, report content, mediation, and other types of dispute resolution processes;
 - (f) Any other topic that concerns the role of the guardian ad litem to help determine the best interest of the child.

(C) Current Guardians ad Litem

An individual who is currently serving as a guardian ad litem on January 1, 2021, shall be deemed compliant with the pre-service education and not be required to complete the twelve hours of pre-service education.

RULE 48.05. Continuing Education.

(A) Continuing education hours and topics

- (1) Continuing education for guardians ad litem shall total six hours annually and be provided by the Supreme Court; the Ohio Court Appointed Special Advocates (CASA) Guardian ad Litem Association; or, with the approval of the appointing court, another provider.
- (2) Of the six hours of continuing education, three hours shall be obtained via a live education program.
- (3) The remaining three hours of continuing education may be satisfied by online or live education, training, writing, mentoring, or field-training activities as pre-approved by the appointing court.
- (4) Continuing education shall consist of advanced education related to topics identified in Sup.R. 48.04.

(B) Failure to comply

If a guardian ad litem fails to complete six hours of continuing education within any calendar year, the individual shall not be eligible to serve as a guardian ad litem on any new appointments until this continuing education requirement is satisfied. The court shall have the discretion to continue the current guardian ad litem appointments.

RULE 48.06. Guardian Ad Litem Reports.

(A) General report requirements

- (1) A guardian ad litem shall prepare a written final report, including recommendations to the court, within the times set forth in this division. The report shall affirmatively state that responsibilities have been met and shall detail the activities performed, hearings attended, persons interviewed, documents reviewed, experts consulted, and all other relevant information considered by the guardian ad litem in reaching the recommendations and in accomplishing the duties required by statute, by court rule, and in the order of appointment from the court.
- (2) All reports shall include the following warning: "The guardian ad litem report shall be provided to the court, unrepresented parties, and legal counsel. Any other disclosure of the report must be approved in advance by the court. Unauthorized disclosure of the report may be subject to court action, including the penalties for contempt, which include fine and/or incarceration."
- (3) Oral and written reports shall address relevant issues, but shall not be considered determinative.
- (4) A guardian ad litem shall be available to testify at any relevant hearing and may orally supplement the report at the conclusion of the hearing.
- (5) A guardian ad litem may provide an interim written or oral report at any time.

(B) Guardian ad litem reports in abuse, neglect, dependency, unruly, and delinquency reports

- (1) A guardian ad litem in abuse, neglect, dependency, unruly, and delinquency cases and actions to terminate parental rights shall provide a written report to the court, unrepresented parties, and legal counsel not less than seven days prior to any initial dispositional hearing, permanent custody hearing, and any hearing upon a motion requesting a change in disposition. The court may alter the seven-day period as may be necessary for the administration of justice.
- (2) A court shall review all guardian ad litem reports, written or oral, to ensure that the guardian ad litem has performed those responsibilities required by R.C. 2151.281.

(C) Guardian ad litem reports in allocation of parental rights and responsibilities cases

- (1) A guardian ad litem in proceedings involving the allocation of parental rights and responsibilities, custody, and visitation shall provide a report to the court, unrepresented parties, and legal counsel not less than seven days before the final hearing date, unless the due date is modified by the court.

(2) The court shall consider the recommendation of the guardian ad litem in determining the best interest of the child only when the report or a portion of the report has been admitted as an exhibit.

(J) Develop a process or local rule for comments and complaints regarding the performance of guardians ad litem practicing before that court that does all of the following:

- (1) Designates a person for accepting and considering written comments and complaints;
- (2) Provides a copy of the comments and complaints to the guardian ad litem who is the subject of the complaint or comment;
- (3) Forwards any comments and complaints to the administrative judge of the court for consideration and appropriate action;
- (4) Develops a provision for the timely disposition by the court;
- (5) Notifies the person making the comment or complaint and the subject guardian ad litem of the disposition;
- (6) Maintains a written record in the file of the guardian ad litem regarding the nature and disposition of any comment or complaint.

Appendix

B

JENIFER K. OVERMYER
JUDGE

IN THE COMMON PLEAS COURT OF PREBLE COUNTY, OHIO
JUVENILE DIVISION

IN THE MATTER OF:

[REDACTED]

* CASE NO. [REDACTED]
*
* JUDGE OVERMYER
* MAGISTRATE COPELAND
*
* MOTION FOR RELIEF FROM
* DUTIES

Dependent Child

NOW COMES, [REDACTED] Guardian ad Litem herein, does hereby move this Court for an order relieving Guardian ad Litem from observing the child with the parents and interviewing the father. Specifically, the Ohio Rules of Superintendence 48.03(D)(2) addresses the duties of a guardian ad litem, which requires the guardian ad litem to observe the child with each parent, foster parent, guardian or physical custodian. Additionally, 48.03(D)(1) requires the guardian ad litem to become informed about the facts of the case and contact all relevant persons. The undersigned has not observed the child with the mother in this pending matter, because the child is placed in detention and the mother has not visited with the child. Further, the undersigned has not interviewed the father or observed a visit between father and the child, because the child does not have a relationship with the father and there is no contact between them.

Vno

Appendix

C

HAPPENING NOW

Proposal Made To Clarify Who Can Receive Guardian ad Litem Reports

By Kathleen Maloney | July 9, 2025

The Supreme Court of Ohio is accepting public comments on proposed rule changes that would make clear who can receive a written report submitted by a guardian ad litem (GAL). The proposal would also strengthen the protections against the unauthorized disclosure of GAL reports.

Courts appoint GALs for children in certain domestic relations and juvenile cases to identify a child's best interests and to communicate those interests to the court. The cases involve allegations of abuse, neglect, dependency, delinquency, or being unruly, as well as cases addressing the allocation of parental rights and responsibilities. Under the Rules of Superintendence for the Courts of Ohio, the GAL provides a report to the court, unrepresented parties in the case, and legal counsel.

The Advisory Committee on Children and Families proposed the rule amendments to provide clarification and uniformity in local court practices regarding who can receive a copy of the GAL report. The changes to Rule 48.06 would add that attorneys who receive a GAL report must provide the report to their clients.

Changes to Rules 48.02 and 48.06 would prohibit any party who receives a copy of a GAL report from disclosing not just the report, but also its contents, without the court's permission. Each GAL report must



Proposed rule changes would prohibit unauthorized disclosure of the contents of guardian ad litem reports while ensuring that attorneys can give the reports to their clients.

RELATED COVERAGE
[On Behalf of Children](#)



include language stating that disclosing the report or its contents is prohibited. Courts may impose contempt penalties for unauthorized disclosures. Those penalties include fines and incarceration.

Send comments on the proposal in writing no later than Aug. 21, 2025, to:

[REDACTED]

[REDACTED]

[REDACTED]

AMENDMENTS TO THE RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO

Comments Requested: The Supreme Court of Ohio will accept public comments until August 21, 2025, on the following proposed amendments to the Rules of Superintendence for the Courts of Ohio.

Comments on the proposed amendments should be submitted in writing to: Kyana Pierson, Supreme Court of Ohio, 65 South Front Street, 6th Floor, Columbus, Ohio 43215, or GALRuleComments@sc.ohio.gov not later than August 21, 2025. Please include your full name and mailing address in any comments submitted by email.

Key to Adopted Amendments:

1. Unaltered language appears in regular type. Example: text
2. Language that has been deleted appears in strikethrough. Example: ~~text~~
3. New language that has been added appears in underline. Example: text

1 **RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO**

2
3 **RULE 48.02. Appointment of Guardian Ad Litem.**

4
5 **(A) Orders of appointment**

6
7 Each court appointing a guardian ad litem under this rule shall enter an order of
8 appointment. The order of appointment shall include statements regarding all of the
9 following:

10
11 (1) Whether it is a sole guardian ad litem appointment or a dual guardian ad
12 litem and attorney appointment;

13
14 (2) That unless otherwise specified by court rule, the appointment shall remain
15 in effect until discharged by order of the court;

16
17 (3) That the guardian ad litem shall be given notice of all hearings and
18 proceedings and be provided a copy of all pleadings, motions, notices, and other
19 documents filed in the case;

20
21 (4) That the guardian ad litem report shall include the following language: "The
22 guardian ad litem has provided this report ~~shall be provided to the court,~~
23 ~~unrepresented parties, and legal counsel. Any other disclosure of the report must~~
24 ~~be approved in advance by the court in accordance with the Rules of~~
25 ~~Superintendence for the Courts of Ohio. Any party receiving a copy of this report~~
26 ~~may not disclose this report or its contents without the permission of the court.~~
27 Unauthorized disclosure of the report or its contents may be subject to court action,
28 including the penalties for contempt, which include fine and/or incarceration."

29
30 (5) The rate or amount of compensation for the guardian ad litem in allocation
31 of parental rights and responsibilities cases;

32
33 (6) The terms and amount of any installment payments and deposits in
34 allocation of parental rights and responsibilities cases.

35
36 **[Existing language unaffected by the amendments is omitted to conserve space]**

37
38
39 **RULE 48.06. Guardian Ad Litem Reports.**

40
41 **(A) General report requirements**

42
43 **[Existing language unaffected by the amendments is omitted to conserve space]**

44
45 (2) All reports shall include the following warning: "The guardian ad litem has
46 provided this report ~~shall be provided to the court, unrepresented parties, and legal counsel.~~

47 Any other disclosure of the report must be approved in advance by the court in accordance
48 with the Rules of Superintendence for the Courts of Ohio. Any party receiving a copy of
49 this report may not disclose this report or its contents without the permission of the court.
50 Unauthorized disclosure of the report or its contents may be subject to court action,
51 including the penalties for contempt, which include fine and/or incarceration."
52

53 [Existing language unaffected by the amendments is omitted to conserve space]
54

55 **(B) Guardian ad litem reports in abuse, neglect, dependency, unruly, and delinquency**
56 **reports**
57

58 (1) A Not fewer than seven days prior to any initial dispositional hearing, permanent
59 custody hearing, and any hearing upon a motion requesting a change in disposition, a
60 guardian ad litem in abuse, neglect, dependency, unruly, and delinquency cases and actions
61 to terminate parental rights shall provide a written report to the court, unrepresented parties,
62 and legal counsel not less than seven days prior to any initial dispositional hearing,
63 permanent custody hearing, and any hearing upon a motion requesting a change in
64 disposition, who shall provide the report to their client. The court must approve any
65 additional disclosure of this report or its contents by a party. Unauthorized disclosure of
66 the report or its contents may be subject to court action, including the penalties for
67 contempt, which include fine and/or incarceration. The court may alter the seven-day
68 period as may be necessary for the administration of justice.
69

70 (2) A court shall review all guardian ad litem reports, written or oral, to ensure that the
71 guardian ad litem has performed those responsibilities required by R.C. 2151.281.
72

73 **(C) Guardian ad litem reports in allocation of parental rights and responsibilities cases**
74

75 (1) A Not fewer than seven days before the final hearing date, unless the due date is
76 modified by the court, a guardian ad litem in proceedings involving the allocation of
77 parental rights and responsibilities, custody, and visitation shall provide a report to the
78 court, unrepresented parties, and legal counsel not less than seven days before the final
79 hearing date, unless the due date is modified by the court, who shall provide the report to
80 their client. The court must approve any additional disclosure of the report or its contents
81 by a party. Unauthorized disclosure of the report or its contents may be subject to court
82 action, including the penalties for contempt, which includes fine and/or incarceration.
83

84 [Existing language unaffected by the amendments is omitted to conserve space]
85

Appendix

D

BEST INTEREST ANALYSIS TEMPLATE

LIST OF CONTACTS

LIST OF DOCUMENTS REVIEWED

HISTORY/BACKGROUND

Include here date of appointment; names and ages of children, the parties and what type of litigation prompted GAL appointment.

Also include brief history of case and placement/parenting time status, and if there has been previous GAL involvement.

CONTACTS WITH MOTHER/PARTY *(Include here all contacts in chronological order, as well any home visit assessment of residence.)*

CONTACTS WITH FATHER/PARTY

CONTACTS WITH WITNESS 1 (FATHER'S WITNESS/RELATIVE, ETC.) *Identify in heading*

CONTACTS WITH WITNESS 2 (MOTHER'S WITNESS/RELATIVE, ETC) *Identify in heading*

CONTACTS WITH WITNESS 3 ETC.

It is important to identify who provided this witness and how this witness has knowledge of the parties and/or the circumstances. There should be a word of identification in the heading line, e.g. coach, babysitter, neighbor, etc.

CONTACTS WITH SCHOOL TEACHER(S) *(Include each teacher/preschool teacher, etc for each child, or possibly multiple teachers for each child, depending on time frame of case)*

CONTACTS WITH MEDICAL PROFESSIONAL(S)

CONTACTS WITH CHILD 1 *(Include here each meeting and each observation with parent(s).)*

CONTACTS WITH CHILD 2 (ETC.)

OTHER INFORMATION

ANALYSIS:

In determining the best interest of a child pursuant to O.R.C. 3109.04, whether on an original decree allocating parental rights and responsibilities for the care of the children, or a modification of a decree allocating 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 the 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 previously has been convicted of or pleaded guilty in 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 previously has been convicted of or pleaded guilty to a violation of section 2919.25 of the Ohio 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 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:

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 made 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:

RECOMMENDATIONS:

Based upon the investigation, I make the following recommendations:

Custody –

Parenting time –

Communication -

Counseling –

Any other -

TIMELINE TEMPLATE

LIST OF CONTACTS

LIST OF DOCUMENTS REVIEWED

HISTORY/BACKGROUND

Include here date of appointment; names and ages of children, the parties and what type of litigation prompted GAL appointment.

Also include brief history of case and placement/parenting time status, and if there has been previous GAL involvement.

DATE OF ACTIVITY *(Include what was done, e.g. interview of party or witness or meeting with child, and include any information gleaned from activity.)*

NEXT DATE OF ACTIVITY *(Include again what was done, what was learned or confirmed or disproved. All persons interviewed and all non-party witnesses must be identified, including how each witness has knowledge, e.g. coach, babysitter, neighbor.)*

NEXT DATE OF ACTIVITY

ETC, ETC. THROUGH CONCLUSION OF INVESTIGATION

CONCLUSIONS OR IMPRESSIONS

RECOMMENDATIONS

Based upon the investigation, I make the following recommendations:

Custody –
Parenting Time –
Communication –
Counseling –
Other issues –

TEMPLATE ORGANIZED BY ACTIVITY

LIST OF CONTACTS

LIST OF DOCUMENTS REVIEWED

HISTORY/BACKGROUND

Include here date of appointment; names and ages of children, the parties and what type of litigation prompted GAL appointment.

Also include brief history of case and placement/parenting time status, and if there has been previous GAL involvement.

CONTACTS WITH MOTHER

Include information gleaned from interviews, review of notes about or from Mother.

CONTACTS WITH FATHER

Include information gleaned from interviews, review of notes about or from Father.

CONTACTS WITH GRANDPARENT A

CONTACTS WITH GRANDPARENT B

CONTACTS WITH OTHER RELATIVE

CONTACTS WITH TEACHER

CONTACTS WITH (here insert name of party or child as applicable) COUNSELOR/THERAPIST

CONTACTS WITH *(here insert name of party or child as applicable)* **MEDICAL SERVICE PROVIDER**

CONTACTS WITH WITNESS A *(Identify by name and connection, e.g. babysitter, neighbor)*

CONTACTS WITH WITNESS B *(Identify by name and connection, e.g. babysitter, neighbor)*

HOME VISITS AND OBSERVATIONS OF CHILD WITH EACH PARENT

SEPARATE INTERVIEW OR OTHER CONTACT WITH CHILD

RELEVANT INFORMATION FROM REVIEW OF DOCUMENTS

CONCLUSIONS/IMPRESSIONS *(not mandatory, but sometimes helpful)*

RECOMMENDATIONS

Based upon the investigation, I make the following recommendations:

Custody –

Parenting Time –

Communication –

Counseling –

Other issues –

IN THE COURT OF COMMON PLEAS,
DIVISION

COUNTY, OHIO

GAL REPORT

Hearing Date: _____

Report Date: _____

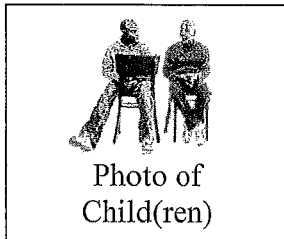
CASE NO. _____

IN RE: _____

GUARDIAN: _____

Date of Appointment _____

CHILDREN (NAMES AND AGES)



OTHER PARTIES/INVOLVED PERSONS

Motion(s) Pending / Hearing Type: _____

Recommendation:

Assessment of Child's Current Placement/Current Needs:

Bullet Points

-
-
-

Contacts/Visits/Contact Attempts since last hearing date:

a. Case Contacts *(Include Date and Name of Contact and relationship of person to child)*

b. Visits *(Include Place, Date and Person visited)*

c. Unsuccessful Contacts *(Include Date and Name and why attempt was unsuccessful)*

Supporting Information *(Include any facts or impressions or other information or concerns which support your Recommendation as noted on Page One)*

Respectfully submitted,
YOUR NAME
GAL

REPORT TO THE COURT

CASE NAME: *(from court order or complaint)*

DATE: *(use court date and date written)*

CASE NO: *(from court order or complaint)*

MAGISTRATE: *(from court order)*

HISTORY: (A brief history of the case. Should include child's name and date of birth. Should also include legal status (Temporary Custody (TC), Planned Permanent Living Arrangement (PPLA), Permanent Commitment (PC)). Also include the number of months the children have been in the custody of HCJFS as well as the permanency plan. **Put most current history in bold or underline.**) **KEEP HISTORY SHORT.**

RECOMMENDATIONS: (Should be numbered and listed as below. Add 5 and so on if additional matters need attention. **Keep recommendations in short sentences.**)

1. **Placement:**
2. **Education:**
3. **Therapy/Medical:**
4. **Parents Services:**
5. **Visitation:**

BASES: (Paragraphs should be numbered and follow along with recommendations. Each numbered basis should support reasoning for each recommendation. Under Placement include the progress toward a permanency plan. Under therapy, include medication, amount taken, and diagnosis or reason. Keep it factual and attach supporting documentation. Do not include foster parents' names or any identifying information.)

1. **Placement:**
2. **Education:**
3. **Therapy/Medical:**
4. **Parents Services:**
5. **Visitation:**

CONCLUSION: (Add if necessary to voice opinions based on facts.)

CONTACTS: (A full and complete list of all contacts made. List should include name and position on the case.

A detailed list of the specific dates of contact with the child should also be included.)

Information for this report was obtained

Respectfully Submitted,

IN THE COURT OF COMMON PLEAS
DOMESTIC RELATIONS DIVISION
_____ COUNTY, OHIO

CASE NO.

PLAINTIFF,

JUDGE

REPORT OF GUARDIAN AD LITEM

DEFENDANT

HEARING DATE:

Trial

PERSONS CONTACTED/INTERVIEWED:

I have interviewed or discussed this case with the following people:

REVIEW OF RECORDS:

I have reviewed the following documents:

HISTORY:

ANALYSIS:

In determining the best interest of a child pursuant ORC 3109.04, 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 the 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;
Brandon is an excellent student. He is involved in extracurricular activities, church activities and sports. He has a girlfriend and involvement with many age appropriate friends.

(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 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 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 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.

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)(I) 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;

RECOMMENDATIONS:

Based on my investigation of this case, I am prepared to make the following recommendations:

Attorney-Guardian Ad Litem

Phone: () _____ - _____
Fax: () _____ - _____

[Attorney Name], #[Supreme Court Registration Number]

Guardian *ad Litem*

[Firm]

[Address]

[City, State, Zip]

[Phone Number]

[email address]

CERTIFICATE OF SERVICE

This certifies that on [date], I sent a copy of this Report by regular US mail/electronic mail/through the Court's efilng system to [Parties or Counsel].

[Name], Esq.

Appendix

E

Section 3109.04 | Allocating parental rights and responsibilities for care of children - shared parenting.

Ohio Revised Code / Title 31 Domestic Relations-Children / Chapter 3109 Children

Effective: June 9, 2011 Latest Legislation: House Bill 121 - 129th General Assembly

(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.

Available Versions of this Section

June 9, 2011 – House Bill 121 - 129th General Assembly

ORC 3109.04 Best Interest Factors

(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.

ORC 3109.04 Shared Parenting Best Interest Factors

(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.

Section 2151.414 | Hearing on motion requesting permanent custody.

Ohio Revised Code / Title 21 Courts-Probate-Juvenile / Chapter 2151 Juvenile Court

Effective: April 6, 2023 Latest Legislation: House Bill 281 - 134th General Assembly

(A)(1) Upon the filing of a motion pursuant to section 2151.413 of the Revised Code for permanent custody of a child, the court shall schedule a hearing and give notice of the filing of the motion and of the hearing, in accordance with section 2151.29 of the Revised Code, to all parties to the action and to the child's guardian ad litem. The notice also shall contain a full explanation that the granting of permanent custody permanently divests the parents of their parental rights, a full explanation of their right to be represented by counsel and to have counsel appointed pursuant to Chapter 120. of the Revised Code if they are indigent, and the name and telephone number of the court employee designated by the court pursuant to section 2151.314 of the Revised Code to arrange for the prompt appointment of counsel for indigent persons.

The court shall conduct a hearing in accordance with section 2151.35 of the Revised Code to determine if it is in the best interest of the child to permanently terminate parental rights and grant permanent custody to the agency that filed the motion. The adjudication that the child is an abused, neglected, or dependent child and any dispositional order that has been issued in the case under section 2151.353 of the Revised Code pursuant to the adjudication shall not be readjudicated at the hearing and shall not be affected by a denial of the motion for permanent custody.

(2) The court shall hold the hearing scheduled pursuant to division (A)(1) of this section not later than one hundred twenty days after the agency files the motion for permanent custody, except that, for good cause shown, the court may continue the hearing for a reasonable period of time beyond the one-hundred-twenty-day deadline. The court shall issue an order

that grants, denies, or otherwise disposes of the motion for permanent custody, and journalize the order, not later than two hundred days after the agency files the motion.

If a motion is made under division (D)(2) of section 2151.413 of the Revised Code and no dispositional hearing has been held in the case, the court may hear the motion in the dispositional hearing required by division (B) of section 2151.35 of the Revised Code. If the court issues an order pursuant to section 2151.353 of the Revised Code granting permanent custody of the child to the agency, the court shall immediately dismiss the motion made under division (D)(2) of section 2151.413 of the Revised Code.

The failure of the court to comply with the time periods set forth in division (A)(2) of this section does not affect the authority of the court to issue any order under this chapter and does not provide any basis for attacking the jurisdiction of the court or the validity of any order of the court.

(B)(1) Except as provided in division (B)(2) of this section, the court may grant permanent custody of a child to a movant if the court determines at the hearing held pursuant to division (A) of this section, by clear and convincing evidence, that it is in the best interest of the child to grant permanent custody of the child to the agency that filed the motion for permanent custody and that any of the following apply:

(a) The child is not abandoned or orphaned, has not been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period, or has not been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period if, as described in division (D)(1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state, and the child cannot be placed with either of the child's parents within a reasonable time or should not be placed with the child's parents.

(b) The child is abandoned.

(c) The child is orphaned, and there are no relatives of the child who are able to take permanent custody.

(d) The child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period, or the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period and, as described in division (D)(1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state.

(e) The child or another child in the custody of the parent or parents from whose custody the child has been removed has been adjudicated an abused, neglected, or dependent child on three separate occasions by any court in this state or another state.

For the purposes of division (B)(1) of this section, a child shall be considered to have entered the temporary custody of an agency on the earlier of the date the child is adjudicated pursuant to section 2151.28 of the Revised Code or the date that is sixty days after the removal of the child from home.

(2) With respect to a motion made pursuant to division (D)(2) of section 2151.413 of the Revised Code, the court shall grant permanent custody of the child to the movant if the court determines in accordance with division (E) of this section that the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent and determines in accordance with division (D) of this section that permanent custody is in the child's best interest.

(C) In making the determinations required by this section or division (A)(4) of section 2151.353 of the Revised Code, a court shall not consider the effect the granting of

permanent custody to the agency would have upon any parent of the child. A written report of the guardian ad litem of the child shall be submitted to the court prior to or at the time of the hearing held pursuant to division (A) of this section or section 2151.35 of the Revised Code but shall not be submitted under oath.

If the court grants permanent custody of a child to a movant under this division, the court, upon the request of any party, shall file a written opinion setting forth its findings of fact and conclusions of law in relation to the proceeding. The court shall not deny an agency's motion for permanent custody solely because the agency failed to implement any particular aspect of the child's case plan.

(D)(1) In determining the best interest of a child at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) or (5) of section 2151.353 or division (C) of section 2151.415 of the Revised Code, the court shall consider all relevant factors, including, but not limited to, the following:

(a) The interaction and interrelationship of the child with the child's parents, siblings, relatives, foster caregivers and out-of-home providers, and any other person who may significantly affect the child;

(b) The wishes of the child, as expressed directly by the child or through the child's guardian ad litem, with due regard for the maturity of the child;

(c) The custodial history of the child, including whether the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period, or the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period and, as described in division (D)(1) of section 2151.413 of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state;

(d) The child's need for a legally secure permanent placement and whether that type of placement can be achieved without a grant of permanent custody to the agency;

(e) Whether any of the factors in divisions (E)(7) to (11) of this section apply in relation to the parents and child.

For the purposes of division (D)(1) of this section, a child shall be considered to have entered the temporary custody of an agency on the earlier of the date the child is adjudicated pursuant to section 2151.28 of the Revised Code or the date that is sixty days after the removal of the child from home.

(2) If all of the following apply, permanent custody is in the best interest of the child, and the court shall commit the child to the permanent custody of a public children services agency or private child placing agency:

(a) The court determines by clear and convincing evidence that one or more of the factors in division (E) of this section exist and the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent.

(b) The child has been in an agency's custody for two years or longer, and no longer qualifies for temporary custody pursuant to division (D) of section 2151.415 of the Revised Code.

(c) The child does not meet the requirements for a planned permanent living arrangement pursuant to division (A)(5) of section 2151.353 of the Revised Code.

(d) Prior to the dispositional hearing, no relative or other interested person has filed, or has been identified in, a motion for legal custody of the child.

(E) In determining at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) of section 2151.353 of the Revised Code whether a child cannot be placed with either parent within a reasonable period of time or should not be placed with the parents, the court shall consider all relevant evidence. If the court determines, by clear

and convincing evidence, at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) of section 2151.353 of the Revised Code that one or more of the following exist as to each of the child's parents, the court shall enter a finding that the child cannot be placed with either parent within a reasonable time or should not be placed with either parent:

- (1) Following the placement of the child outside the child's home and notwithstanding reasonable case planning and diligent efforts by the agency to assist the parents to remedy the problems that initially caused the child to be placed outside the home, the parent has failed continuously and repeatedly to substantially remedy the conditions causing the child to be placed outside the child's home. In determining whether the parents have substantially remedied those conditions, the court shall consider parental utilization of medical, psychiatric, psychological, and other social and rehabilitative services and material resources that were made available to the parents for the purpose of changing parental conduct to allow them to resume and maintain parental duties.
- (2) Chronic mental illness, chronic emotional illness, intellectual disability, physical disability, or chemical dependency of the parent that is so severe that it makes the parent unable to provide an adequate permanent home for the child at the present time and, as anticipated, within one year after the court holds the hearing pursuant to division (A) of this section or for the purposes of division (A)(4) of section 2151.353 of the Revised Code;
- (3) The parent committed any abuse as described in section 2151.031 of the Revised Code against the child, caused the child to suffer any neglect as described in section 2151.03 of the Revised Code, or allowed the child to suffer any neglect as described in section 2151.03 of the Revised Code between the date that the original complaint alleging abuse or neglect was filed and the date of the filing of the motion for permanent custody;
- (4) The parent has demonstrated a lack of commitment toward the child by failing to regularly support, visit, or communicate with the child when able to do so, or by other

actions showing an unwillingness to provide an adequate permanent home for the child;

(5) The parent is incarcerated for an offense committed against the child or a sibling of the child;

(6) The parent has been convicted of or pleaded guilty to an offense under division (A) or (C) of section 2919.22 or under section 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.03, 2905.04, 2905.05, 2907.07, 2907.08, 2907.09, 2907.12, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, or 3716.11 of the Revised Code, and the child or a sibling of the child was a victim of the offense, or the parent has been convicted of or pleaded guilty to an offense under section 2903.04 of the Revised Code, a sibling of the child was the victim of the offense, and the parent who committed the offense poses an ongoing danger to the child or a sibling of the child.

(7) The parent has been convicted of or pleaded guilty to one of the following:

(a) An offense under section 2903.01, 2903.02, or 2903.03 of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense was a sibling of the child or the victim was another child who lived in the parent's household at the time of the offense;

(b) An offense under section 2903.11, 2903.12, or 2903.13 of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense;

(c) An offense under division (B)(2) of section 2919.22 of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially

equivalent to the offense described in that section and the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense is the victim of the offense;

(d) An offense under section 2907.02, 2907.03, 2907.04, 2907.05, or 2907.06 of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense;

(e) An offense under section 2905.32, 2907.21, or 2907.22 of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to the offense described in that section and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense;

(f) A conspiracy or attempt to commit, or complicity in committing, an offense described in division (E)(7)(a), (d), or (e) of this section.

(8) The parent has repeatedly withheld medical treatment or food from the child when the parent has the means to provide the treatment or food, and, in the case of withheld medical treatment, the parent withheld it for a purpose other than to treat the physical or mental illness or disability of the child by spiritual means through prayer alone in accordance with the tenets of a recognized religious body.

(9) The parent has placed the child at substantial risk of harm two or more times due to alcohol or drug abuse and has rejected treatment two or more times or refused to participate in further treatment two or more times after a case plan issued pursuant to section 2151.412 of the Revised Code requiring treatment of the parent was journalized as part of a

dispositional order issued with respect to the child or an order was issued by any other court requiring treatment of the parent.

(10) The parent has abandoned the child.

(11) The parent has had parental rights involuntarily terminated with respect to a sibling of the child pursuant to this section or section 2151.353 or 2151.415 of the Revised Code, or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to those sections, and the parent has failed to provide clear and convincing evidence to prove that, notwithstanding the prior termination, the parent can provide a legally secure permanent placement and adequate care for the health, welfare, and safety of the child.

(12) The parent is incarcerated at the time of the filing of the motion for permanent custody or the dispositional hearing of the child and will not be available to care for the child for at least eighteen months after the filing of the motion for permanent custody or the dispositional hearing.

(13) The parent is repeatedly incarcerated, and the repeated incarceration prevents the parent from providing care for the child.

(14) The parent for any reason is unwilling to provide food, clothing, shelter, and other basic necessities for the child or to prevent the child from suffering physical, emotional, or sexual abuse or physical, emotional, or mental neglect.

(15) The parent has committed abuse as described in section 2151.031 of the Revised Code against the child or caused or allowed the child to suffer neglect as described in section 2151.03 of the Revised Code, and the court determines that the seriousness, nature, or likelihood of recurrence of the abuse or neglect makes the child's placement with the child's parent a threat to the child's safety.

(16) Any other factor the court considers relevant.

(F) The parents of a child for whom the court has issued an order granting permanent custody pursuant to this section, upon the issuance of the order, cease to be parties to the action. This division is not intended to eliminate or restrict any right of the parents to appeal the granting of permanent custody of their child to a movant pursuant to this section.

Last updated March 10, 2023 at 11:13 AM

Available Versions of this Section

September 17, 2014 – House Bill 213, House Bill 130 - 130th General Assembly

October 12, 2016 – House Bill 158 - 131st General Assembly

April 6, 2023 – Amended by House Bill 281 - 134th General Assembly

ORC 2151.414 Best Interest Factors

(D)(1) In determining the best interest of a child at a hearing held pursuant to division (A) of this section or for the purposes of division (A)(4) or (5) of section [2151.353](#) or division (C) of section [2151.415](#) of the Revised Code, the court shall consider all relevant factors, including, but not limited to, the following:

(a) The interaction and interrelationship of the child with the child's parents, siblings, relatives, foster caregivers and out-of-home providers, and any other person who may significantly affect the child;

(b) The wishes of the child, as expressed directly by the child or through the child's guardian ad litem, with due regard for the maturity of the child;

(c) The custodial history of the child, including whether the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period, or the child has been in the temporary custody of one or more public children services agencies or private child placing agencies for twelve or more months of a consecutive twenty-two-month period and, as described in division (D)(1) of section [2151.413](#) of the Revised Code, the child was previously in the temporary custody of an equivalent agency in another state;

(d) The child's need for a legally secure permanent placement and whether that type of placement can be achieved without a grant of permanent custody to the agency;

(e) Whether any of the factors in divisions (E)(7) to (11) of this section apply in relation to the parents and child.

ORC 2151.414 Best Interest Factors

(7) The parent has been convicted of or pleaded guilty to one of the following:

(a) An offense under section [2903.01](#), [2903.02](#), or [2903.03](#) of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense was a sibling of the child or the victim was another child who lived in the parent's household at the time of the offense;

(b) An offense under section [2903.11](#), [2903.12](#), or [2903.13](#) of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense;

(c) An offense under division (B)(2) of section [2919.22](#) of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to the offense described in that section and the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense is the victim of the offense;

(d) An offense under section [2907.02](#), [2907.03](#), [2907.04](#), [2907.05](#), or [2907.06](#) of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to an offense described in those sections and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense;

(e) An offense under section [2905.32](#), [2907.21](#), or [2907.22](#) of the Revised Code or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to the offense described in that section and the victim of the offense is the child, a sibling of the child, or another child who lived in the parent's household at the time of the offense;

(f) A conspiracy or attempt to commit, or complicity in committing, an offense described in division (E)(7)(a), (d), or (e) of this section.

(8) The parent has repeatedly withheld medical treatment or food from the child when the parent has the means to provide the treatment or food, and, in the case of withheld medical treatment, the parent withheld it for a purpose other than to treat the physical or mental illness or disability of the child by spiritual means through prayer alone in accordance with the tenets of a recognized religious body.

(9) The parent has placed the child at substantial risk of harm two or more times due to alcohol or drug abuse and has rejected treatment two or more times or refused to participate in further treatment two or more times after a case plan issued pursuant to section [2151.412](#) of the Revised Code requiring treatment of the parent was journalized as

part of a dispositional order issued with respect to the child or an order was issued by any other court requiring treatment of the parent.

(10) The parent has abandoned the child.

(11) The parent has had parental rights involuntarily terminated with respect to a sibling of the child pursuant to this section or section [2151.353](#) or [2151.415](#) of the Revised Code, or under an existing or former law of this state, any other state, or the United States that is substantially equivalent to those sections, and the parent has failed to provide clear and convincing evidence to prove that, notwithstanding the prior termination, the parent can provide a legally secure permanent placement and adequate care for the health, welfare, and safety of the child.