

PETITIONER'S/RESPONDENT'S PRETRIAL CUSTODY ISSUE WORKSHEET

INSTRUCTIONS: In each category, identify with specificity what evidence you anticipate presenting at trial that would pertain to that factor. If a factor is not relevant in your case, you may put "not applicable." If more space is necessary, you may attach additional sheets. You do not need to identify witnesses or exhibits in this worksheet, but you must list the precise facts you intend to prove at trial. Failure to adequately outline your case may result in the requirement of a custody evaluation.

I. MANDATORY FACTORS UNDER U.C.A. § 81-9-204(2-3)

- A. Best interests of the child

- B. Evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, the parent, or a household member of the parent

- C. for each parent, and in accordance with Section [81-9-104](#), evidence of domestic violence, physical abuse, or sexual abuse involving the child, the parent, or a household member of the parent;

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

- E. whether custody and parent-time would endanger the child's health or physical or psychological safety.

II. FACTORS COURT MAY CONSIDER PER U.C.A. § 81-9-204(4)

- A. Evidence of psychological maltreatment

B. The parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the child, including the child's:

i. Physical needs

ii. Emotional needs

iii. Educational needs

iv. Medical needs; and

v. Any special needs

C. The parent's capacity and willingness to function as a parent, including:

i. Parenting skills.

ii. Co-parenting skills, including:

a. Ability to appropriately communicate with the other parent.

b. Ability to encourage the sharing of love and affection; and

c. Willingness to allow frequent and continuous contact between the child and the other parent, except that, if the court determines that the parent is acting to protect

the child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration.

iii. Ability to provide personal rather than surrogate care.

D. Past conduct and demonstrated moral character of the parent (see § 81-9-204(9))

E. The emotional stability of the parent

F. The parent's inability to function as a parent because of drug abuse, excessive drinking, or other causes.

G. The parent's reasons for having relinquished custody or parent-time in the past.

H. Duration and depth of desire for custody or parent-time

- I. The parent's religious compatibility with the child

- J. The parent's financial responsibility

- K. The child's interaction and relationship with stepparents, extended family members, or other individuals who may significantly affect the child's best interests.

- L. Who has been the primary caretaker of the child?

- M. Previous parenting arrangements in which the child has been happy and well-adjusted in the home, school, and community.

- N. The relative benefit of keeping siblings together.

- O. The stated wishes and concerns of the child, taking into consideration the child's cognitive ability and emotional maturity.

- P. The relative strength of the child's bond with the parent, meaning the depth, quality, and nature of the relationship between the parent and the child.

Q. Any other factor the court finds relevant.

III. FACTORS TO DETERMINE WHETHER JOINT CUSTODY SHOULD BE ORDERED UNDER U.C.A. § 81-9-205(5)

Note: For this section, the court shall consider the previous factors and the following:

A. Whether the physical, psychological, and emotional needs and development of the child will benefit from joint legal or physical custody.

B. The ability of the parents to give first priority to the welfare of the child and reach shared decisions in the child's best interest.

C. Co-parenting skills, including:

i. Ability to appropriately communicate with the other parent.

ii. Ability to encourage the sharing of love and affection.

iii. Willingness to allow frequent and continuous contact between the child and the other parent, except that, if the court determines that the parent is acting to protect the child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration.

D. Whether both parents participated in raising the child before the divorce

E. The geographical proximity of the homes of the parents

F. The preference of the child if the child is of sufficient age and capacity to reason so as to form an intelligent preference as to joint legal custody or joint physical custody.

G. The maturity of the parents and their willingness and ability to protect the child from conflict that may arise between the parents.

H. The past and present ability of the parents to cooperate with each other and make decisions jointly.

I. Any other factors that are relevant

IV. FACTORS FROM U.C.A. §§ 81-9-303 and 304

A. The noncustodial parent has been active in the child's life:

i. Demonstrated responsibility in caring for the child.

ii. Involvement in childcare

iii. Presence or volunteer efforts in the child's school and at extracurricular activities

iv. Assistance with the child's homework

v. Involvement in preparation of meals, bath time, and bedtime for the child

vi. Bonding with the child

B. The parents can communicate effectively regarding the child, or the noncustodial parent has a plan to accomplish effective communication regarding the child.

C. The noncustodial parent has the ability to facilitate the increased parent time:

i. The geographic distance between the residences of the parents and the distance between the parents' residences and the child's school

ii. The noncustodial parent's ability to assist with after school care.

iii. The health of the child and the noncustodial parent in accordance with Subsection 81-9-204(5)

iv. Flexibility of employment or another schedule of the noncustodial parent

v. Ability to provide appropriate playtime with the child.

vi. History and ability of the noncustodial parent to implement a flexible schedule for the child.

vii. Physical facilities of the noncustodial parent's residence

Submitted this _____ day of _____, _____.
