

## **CHAPTER 14-09-29**

### **Parental rights and responsibilities - Best interests and welfare of child**

1. A court issuing an order that deals with parenting rights and responsibilities of a child entered under this chapter shall award the parental rights and responsibilities concerning the child to a person, agency, organization, or institution as will, in the opinion of the court, promote the best interests and welfare of the child. Between the mother and father, whether married or unmarried, there is no presumption as to whom will better promote the best interests and welfare of the child.
2. If the court finds that a parent has perpetrated domestic violence and that parent does not have residential responsibility, and there exists one incident of domestic violence which resulted in serious bodily injury or involved the use of a dangerous weapon or there exists a pattern of domestic violence within a reasonable time proximate to the proceeding, the court shall allow only supervised parenting time with that parent unless there is a showing by clear and convincing evidence that unsupervised parenting time would not endanger the child's physical or emotional health.
3. If any court finds that a parent has sexually abused the parent's child, the court shall prohibit contact between the abusive parent and the child until the court finds that the abusive parent has successfully completed a treatment program designed for such sexual abusers and that supervised parenting time is in the child's best interests. Contact between the abusive parent and the child may be allowed only in a therapeutic setting, facilitated by a therapist as part of a sexual abuse treatment program, and only when the therapist for the abusive parent and the therapist for the abused child agree that contact serves a therapeutic purpose and is in the best interests of the child.
4. In any proceeding dealing with parental rights and responsibilities in which a parent is found to have perpetrated domestic violence, and there exists one incident of domestic violence which resulted in serious bodily injury or involved the use of a dangerous weapon or there exists a pattern of domestic violence within a reasonable time proximate to the proceeding, all court costs, attorney's fees, evaluation fees, and expert witness fees must be paid by the perpetrator of the domestic violence unless those costs would place an undue financial hardship on that parent.

**CHAPTER 14-09-30**  
**Parenting plans - Contents.**

1. In any proceeding to establish or modify a judgment providing for parenting time with a child, the parents shall develop and file with the court a parenting plan to be included in the court's decree. If the parents are unable to agree on a parenting plan, the court shall issue a parenting plan considering the best interests of the child.
  
2. A parenting plan must include, at a minimum, provisions regarding the following or an explanation as to why a provision is not included:
  - a. Decision-making responsibility relative to:
    - (1) Routine or day-to-day decisions; and
    - (2) Major decisions such as education, health care, and spiritual development;
  
  - b. Information sharing and access, including telephone and electronic access;
  
  - c. Legal residence of a child for school attendance;
  
  - d. Residential responsibility, parenting time, and parenting schedule, including:
    - (1) Holidays and days off from school, birthday, and vacation planning;
    - (2) Weekends and weekdays; and
    - (3) Summers;
  
  - e. Transportation and exchange of the child, considering the safety of the parties;
  
  - f. Procedure for review and adjustment of the plan; and
  
  - g. Methods for resolving disputes.

**CHAPTER 14-09-31**  
**Decision-making responsibility.**

Except as provided in subsection 3, in the making of any order relative to decision-making responsibility:

1. If the parents have reached an agreement as to decision-making responsibility, the court shall accept the agreement unless the court makes written findings that the agreement is not in the best interests of the child.
2. If the parents cannot agree on an allocation of decision-making responsibility, the court shall enter an order allocating decision-making responsibility in the best interests of the child.
3. An allocation of decision-making responsibility is not in the best interests of the child unless the order includes a method of resolving disputes when parents do not agree on an issue.
4. If the court finds that domestic violence as defined in section 14-07.1-01 has occurred, the court shall consider such domestic violence in determining whether joint decision-making responsibility is in the best interests of the child. In such cases, the court shall make orders for the allocation of parental rights and responsibilities that best protect the child, the parent, or both. If joint decision-making responsibility is granted, even though there is evidence of domestic violence, the court shall provide written findings to support the order.

**CHAPTER 14-09-32**  
**Parental rights and responsibilities.**

1. Each parent of a child has the following rights and responsibilities:
  - a. Right to access and obtain copies of the child's educational, medical, dental, religious, insurance, and other records or information.
  - b. Right to attend educational conferences concerning the child. This right does not require any school to hold a separate conference with each parent.
  - c. Right to reasonable access to the child by written, telephonic, and electronic means.
  - d. Duty to inform the other parent as soon as reasonably possible of a serious accident or serious illness for which the child receives health care treatment. The parent shall provide to the other parent a description of the serious accident or serious illness, the time of the serious accident or serious illness, and the name and location of the treating health care provider.
  - e. Duty to immediately inform the other parent of residential telephone numbers and address, and any changes to the same.
  - f. Duty to keep the other parent informed of the name and address of the school the child attends.
2. The court shall include in an order establishing or modifying parental rights and responsibilities the rights and duties listed in this section; however, the court may restrict or exclude any right or duty listed in this section if the order states the reason in support of the restriction or exclusion. The court shall consider any domestic violence protection orders relating to the parties when determining whether to restrict or exclude any right or duty listed in this section.

**CHAPTER 14-09-33**  
**References to child custody and custodial parent.**

Any law that refers to the "custody" of a child means the allocation of parental rights and responsibilities as provided in this chapter. Any law that refers to a "custodial parent" or "primary residential responsibility" means a parent with more than fifty percent of the residential responsibility and any reference to a noncustodial parent means a parent with less than fifty percent of the residential responsibility.