

Proposed Amendment to Family Code §§3000-3465 and Related Sections

Part 1. LEGISLATIVE FINDINGS; PURPOSE.—

*It is the finding of the Legislature that:*

- (a) Nearly three-fourths of the children involved in litigation of family matters are age seven and younger, the ages of brain development most vulnerable to toxic stress, causing adverse and permanent damage, a cost to the State of its citizens being impaired in physical health, personal finances and responsible citizenship, and more likely to engage in substance abuse.
- (b) Parental conflict related to divorce is a societal concern because children suffer potential short-term and long-term detrimental economic, emotional, and educational effects during this difficult period of family transition. This is particularly true when parents engage in lengthy legal conflict.
- (c) Exposure to inter-parental conflict has a lasting, adverse impact on brain development. Prompt interventions will make the stress of divorce tolerable rather than toxic.
- (d) Interventions to minimize toxic stress will reduce societal costs and lead to better public health and safety.
- (e) The Legislature and people of the State of California find and declare that this amendment is necessary to serve compelling public interests, including those of making the most effective use of the limited financial resources now and prospectively available to support family law courts, maximizing use of the available resources, protecting the health and safety of all children, especially those younger ones whose brains are in development, enhancing the ability of parents to minimize trauma in the dissolution of marriage or partnership process, fostering harmony and tranquility in this state and its families. We recognize the crucial importance of childhood experience in shaping the health of the individual, and ultimately, society.

THEREFORE, IT IS HEREBY ORDERED THAT:

1. Each county of this State shall establish a Center for Family Relationships which shall be separate and apart from the family law courts. A county may establish more than one such Center. The goals of the Centers shall be to effectuate parenting plans early in the dissolution process, and to prevent the escalation of conflict which is harmful to children.
2. The Centers shall be staffed with persons trained in parenting relationships and identifying high-conflict persons and domestic violence as defined Division 10 Part 1 of the Family Code.
3. Intake forms at the Centers shall include questionnaires designed to ascertain parenting histories, the amount of time each parent spent performing caretaking functions with respect to the child in the 24 months preceding the filing of any petition for allocation of parental responsibilities or, if the child is under 2 years of age, since the child's birth; and patterns indicating high-conflict behaviors, including domestic violence.
4. All petitions for dissolution of marriage or partnership in which there are minor children, or actions to establish parental relationship shall be filed with the County Centers. At the time of such filing, a staff person shall interview the petitioner to determine whether the parents are amenable to formulating a parenting plan with the assistance of a staff mediator, or whether they should be assigned to a high-conflict specialist. The parents shall then be assigned to a mediator

or specialist and the first session with their assigned staff person shall be set within 30 days of the filing of the petition.

5. When there has been domestic violence between the parties, the parties shall be assigned to a high-conflict specialist.

6. If parents write their own parenting plans, pursuant to minimum standards set forth in Section \_\_\_\_ below, and file those plans within 30 days of the filing of the petition, they may be excused from Center for Family Relationships mediation, except that the staff person assigned to assist in their parenting plans shall review it with the parents to assess whether it complies with minimum requirements for a parenting plan as set forth in subsection — of Section —; it is free from coercion; and it is in the best interests of the child or children.

7. Should a high-conflict specialist be unable to effectuate a parenting plan which is in the best interests of a child, the case shall be referred to a panel of three high-conflict specialists for the purpose of referring the parties to the Superior Court for a judge to order an appropriate parenting plan. The person identified as preventing the effectuation of a parenting plan shall pay the court costs and attorney fees incurred by the other party.

## PART 2 ALLOCATION OF PARENTAL RESPONSIBILITIES

*Section \_\_\_\_ Definitions. For purposes of this Part:*

(a) "Abuse" has the meaning ascribed to that term in Division 10 Part 1 of this Code, Domestic Violence Prevention Act, Sections 6200 and following.

(b) "Allocation judgment" means a judgment allocating parental responsibilities.

(c) "Caretaking functions" means tasks that involve interaction with a child or that direct, arrange, and supervise the interaction with and care of a child provided by others, or for obtaining the resources allowing for the provision of these functions. The term includes, but is not limited to, the following:

(1) satisfying a child's nutritional needs; managing a child's bedtime and wake-up routines; caring for a child when the child is sick or injured; being attentive to a child's personal hygiene needs, including washing, grooming, and dressing; playing with a child and ensuring the child attends scheduled extracurricular activities; protecting a child's physical safety; and providing transportation for a child;

(2) directing a child's various developmental needs, including the acquisition of motor and language skills, toilet training, self-confidence, and maturation;

(3) providing discipline, giving instruction in manners, assigning and supervising chores, and performing other tasks that attend to a child's needs for behavioral control and self-restraint;

(4) ensuring the child attends school, including remedial and special services appropriate to the child's needs and interests, communicating with teachers and counselors, and supervising homework;

(5) helping a child develop and maintain appropriate interpersonal relationships with peers, siblings, and other family members;

(6) ensuring the child attends medical appointments and is available for medical follow-up and meeting the medical needs of the child in the home;

(7) providing moral and ethical guidance for a child; and

(8) arranging alternative care for a child by a family member, babysitter, or other child care provider or facility, including investigating such alternatives, communicating with providers, and supervising such care.

(d) "Parental responsibilities" means both parenting time and significant decision-making responsibilities with respect to a child.

(e) "Parenting time" means the time during which a parent is responsible for exercising caretaking functions and non-significant decision-making responsibilities with respect to the child.

(f) "Parenting plan" means a written agreement that allocates significant decision-making responsibilities, parenting time, or both.

(g) "Relocation" means:

(1) a change of residence from the child's current primary residence to a new residence within this State that is more than 25 miles from the child's current residence;

(2) a change of residence from the child's current primary residence to a residence outside the borders of this State that is more than 25 miles from the current primary residence.

(h) "Religious upbringing" means the choice of religion or denomination of a religion, religious schooling, religious training, or participation in religious customs or practices.

(i) "Restriction of parenting time" means any limitation or condition placed on parenting time, including supervision.

(j) "Right of first refusal" has the meaning provided in subsection \_\_\_\_ of Section \_\_\_\_ of this Act.

(k) "Significant decision-making" means deciding issues of long-term importance in the life of a child.

(l) "Step-parent" means a person married to a child's parent, including a person married to the child's parent immediately prior to the parent's death.

(m) "Supervision" means the presence of a third party during a parent's exercise of parenting time.

*Section \_\_\_\_.* *Jurisdiction; commencement of proceeding.*

(a) A proceeding for allocation of parental responsibilities with respect to a child is commenced in the Family Relationships Center:

(1) By filing a petition for dissolution of marriage or partnership in which there are minor children, or actions to establish parental relationship with the Family Relationships Centers.

(2) by filing a petition for allocation of parental responsibilities with respect to the child in the county in which the child resides;

(3) by a person other than a parent, by filing a petition for allocation of parental responsibilities in the county in which the child is permanently resident or found, but only if he or she is not in the physical custody of one of his or her parents;

(4) by a step-parent, by filing a petition, if all of the following circumstances are met:

(A) the parent having the majority of parenting time is deceased or is disabled and cannot perform the duties of a parent to the child;

(B) the step-parent provided for the care, control, and welfare of the child prior to the initiation of proceedings for allocation of parental responsibilities;

(C) the child wishes to live with the step-parent; and

(D) it is alleged to be in the best interests and welfare of the child to live with the step-parent as provided in Section \_\_\_\_ of this Act; or

(5) when one of the parents is deceased, by a grandparent who is a parent or step-parent of a deceased parent, by filing a petition, if one or more of the following existed at the time of the parent's death:

(A) the surviving parent had been absent from the marital abode for more than one month without the spouse knowing his or her whereabouts;

(B) the surviving parent was in State or federal custody; or

(C) the surviving parent had:

(i) received supervision for or been convicted of any violation of Section of the Penal Code, directed towards the deceased parent or the child; or (ii) received supervision or been convicted of violating an order of protection entered under Section 6200 ff. of the Domestic Violence Prevention Act for the protection of the deceased parent or the child.

(c) When a proceeding for allocation of parental responsibilities is commenced, the party commencing the action must forthwith serve a written notice of the time and date of the first meeting with the Family Relationships Centers and a copy of the petition on the child's parent, guardian, person currently allocated parental responsibilities and any person with a pending request for allocation of parental responsibilities with respect to the child.

*Section \_\_\_\_\_. Allocation of parental responsibilities: decision-making.*

(a) Generally. The aim of all parenting plans shall be to allocate decision-making responsibilities according to the child's best interests. Nothing in this Act requires that each parent have allocated decision-making responsibilities.

(b) Allocation of significant decision-making responsibilities. If the parents agree in writing on an allocation of significant decision-making responsibilities, as defined below, that agreement if approved by the Center shall be deemed and filed in the dissolution or parental relationship action as an order of the court. If the parents are referred to court as intractable high-conflict, the court shall consider as follows those significant issues including, without limitation, the following:

(1) Education, including the choice of schools and tutors.

(2) Health, including all decisions relating to the medical, dental, and psychological needs of the child and to the treatments arising or resulting from those needs.

(3) Religion, subject to the following provisions:

(A) A court shall allocate decision-making responsibility for the child's religious upbringing in accordance with any express or implied agreement between the parents.

(B) A court shall consider evidence of the parents' past conduct as to the child's religious upbringing in allocating decision-making responsibilities consistent with demonstrated past conduct in the absence of an express or implied agreement between the parents.

(C) A court shall not allocate any aspect of the child's religious upbringing if it determines that the parents do not or did not have an express or implied agreement for such religious upbringing or that there is insufficient evidence to demonstrate a course of conduct regarding the child's religious upbringing that could serve as a basis for any such order.

(4) Extracurricular activities.

(c) Determination of child's best interests. In determining the child's best interests for purposes of allocating significant decision-making responsibilities, a court shall consider all relevant factors, including, without limitation, the following:

(1) the wishes of the child, taking into account the child's maturity and ability to express reasoned and independent preferences as to decision-making;

(2) the child's adjustment to his or her home, school, and community;

(3) the mental and physical health of all individuals involved;

(4) the ability of the parents to cooperate to make decisions, or the level of conflict between the parties that may affect their ability to share decision-making;

(5) the level of each parent's participation in past significant decision-making with respect to the child;

(6) any prior agreement or course of conduct between the parents relating to decision-making with respect to the child;

(7) the wishes of the parents;

(8) the child's needs;

(9) the distance between the parents' residences, the cost and difficulty of transporting the child, each parent's and the child's daily schedules, and the ability of the parents to cooperate in the arrangement;

(10) whether a restriction on decision-making is appropriate under Section \_\_\_\_;

(11) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child;

(12) the physical violence or threat of physical violence by the child's parent directed against the child;

(13) the occurrence of abuse against the child or other member of the child's household;

(14) whether one of the parents is a sex offender, and if so, the exact nature of the offense and what, if any, treatment in which the parent has successfully participated; and

(15) any other factor that a court expressly finds to be relevant.

(d) A parent shall have sole responsibility for making routine decisions with respect to the child and for emergency decisions affecting the child's health and safety during that parent's parenting time.

*Section \_\_\_\_ . Allocation of parental responsibilities: parenting time.*

(a) Best interests. A court, if called upon to make the decision, shall allocate parenting time according to the child's best interests.

(b) Allocation of parenting time. The parents' mutually-agreed and approved written parenting plan shall be the court order. If a court must allocate parenting time, it may place restrictions on parenting time as defined in Section \_\_\_\_ above, and described in Section \_\_\_\_, if it finds by a preponderance of the evidence that a parent's exercise of parenting time would seriously endanger the child's physical, mental, moral, or emotional health.

In determining the child's best interests for purposes of allocating parenting time, a court shall consider all relevant factors, including, without limitation, the following:

(1) the wishes of each parent seeking parenting time;

(2) the wishes of the child, taking into account the child's maturity and ability to express reasoned and independent preferences as to parenting time;

(3) the amount of time each parent spent performing caretaking functions with respect to the child in the 24 months preceding the filing of any petition for allocation of parental responsibilities or, if the child is under 2 years of age, since the child's birth;

(4) any prior agreement or course of conduct between the parents relating to caretaking functions with respect to the child;

(5) the interaction and interrelationship of the child with his or her parents and siblings and with any other person who may significantly affect the child's best interests;

(6) the child's adjustment to his or her home, school, and community;

(7) the mental and physical health of all individuals involved;

(8) the child's needs;

(9) the distance between the parents' residences, the cost and difficulty of transporting the child, each parent's and the child's daily schedules, and the ability of the parents to cooperate in the arrangement;

(10) whether a restriction on parenting time is appropriate;

(11) the physical violence or threat of physical violence by the child's parent directed against the child or other member of the child's household;

(12) the willingness and ability of each parent to place the needs of the child ahead of his or her own needs;

(13) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child;

(14) the occurrence of abuse against the child or other member of the child's household;

(15) whether one of the parents is a convicted sex offender or lives with a convicted sex offender and, if so, the exact nature of the offense and what if any treatment the offender has successfully participated in; the parties are entitled to a hearing on the issues raised in this paragraph ;

(16) the terms of a parent's military family-care plan that a parent must complete before deployment if a parent is a member of the United States Armed Forces who is being deployed; and

(17) any other factor that a court expressly finds to be relevant.

(c) In allocating parenting time, a court shall not consider conduct of a parent that does not affect that parent's relationship to the child.

(d) Upon motion, a court may allow a parent who is deployed or who has orders to be deployed as a member of the United States Armed Forces to designate a person known to the child to exercise reasonable substitute visitation on behalf of the deployed parent, if the court determines that substitute visitation is in the best interests of the child. In determining whether

substitute visitation is in the best interests of the child, the court shall consider all of the relevant factors listed in subsection (b) of this Section and apply those factors to the person designated as a substitute for the deployed parent for visitation purposes. Visitation orders entered under this subsection are subject to subsections (e) and (f) of Section \_\_\_\_ and subsections (c) and (d) of Section \_\_\_\_.

(e) If the street address of a parent is not identified pursuant to Section \_\_\_\_ of this Act, the court shall require the parties to identify reasonable alternative arrangements for parenting time by the other parent including, but not limited to, parenting time of the minor child at the residence of another person or at a local public or private facility.

*Section \_\_\_\_ . Parenting time by parents not allocated significant decision-making responsibilities.*

(a) A parent who has established parentage under the laws of this State and who is not granted significant decision-making responsibilities for a child is entitled to reasonable parenting time with the child, subject to subsections (d) and (e) of Section 603.10 of this Act, unless a court finds, after a hearing, that the parenting time would seriously endanger the child's mental, moral, or physical health or significantly impair the child's emotional development. The order setting forth parenting time shall be in the child's best interests pursuant to the factors set forth in subsection (b) of Section \_\_\_\_ of this Act.

(b) A court may modify an order granting or denying parenting time pursuant to Section \_\_\_\_ of this Act. The court may restrict parenting time, and modify an order restricting parenting time, pursuant to Section \_\_\_\_ of this Act.

(c) If the street address of the parent allocated parental responsibilities is not identified, pursuant to Section 6200 ff. of this Act, the court shall require the parties to identify reasonable alternative arrangements for parenting time by a parent not allocated parental responsibilities, including but not limited to parenting time of the minor child at the residence of another person or at a local public or private facility.

*Section \_\_\_\_ . Visitation by certain non-parents.*

(a) As used in this Section:

(1) "electronic communication" means time that a grandparent, great-grandparent, sibling, or step-parent spends with a child during which the child is not in the person's actual physical custody, but which is facilitated by the use of communication tools such as the telephone, electronic mail, instant messaging, video conferencing or other wired or wireless technologies via the Internet, or another medium of communication;

(2) "sibling" means a brother or sister either of the whole blood or the half blood, stepbrother, or stepsister of the minor child;

(3) "step-parent" means a person married to a child's parent, including a person married to the child's parent immediately prior to the parent's death; and



(4) "visitation" means in-person time spent between a child and the child's grandparent, great-grandparent, sibling, step-parent, or any person designated under subsection (d) of Section \_\_\_\_\_. In appropriate circumstances, visitation may include electronic communication under conditions and at times determined by the court.

(b) General provisions.

(1) An appropriate person, as identified in subsection (c) of this Section, may bring an action in circuit court by petition, or by filing a petition in a pending dissolution proceeding or any other proceeding that involves parental responsibilities or visitation issues regarding the child, requesting visitation with the child pursuant to this Section. If there is not a pending proceeding involving parental responsibilities or visitation with the child, the petition for visitation with the child must be filed in the county in which the child resides. Notice of the petition shall be given as provided in subsection (c) of Section \_\_\_\_\_ of this Act.

(2) This Section does not apply to a child:

(A) in whose interests a petition is pending under the Juvenile Court Act; or

(B) in whose interests a petition to adopt by an unrelated person is pending under the Adoption Act; or

(C) who has been voluntarily surrendered by the parent or parents, except for a surrender to the Department of Children and Family Services or a foster care facility; or

(D) who has been previously adopted by an individual or individuals who are not related to the biological parents of the child or who is the subject of a pending adoption petition by an individual or individuals who are not related to the biological parents of the child; or

(E) who has been relinquished pursuant to the Abandoned Newborn Infant Protection Act.

(3) A petition for visitation may be filed under this Section only if there has been an unreasonable denial of visitation by a parent and the denial has caused the child undue mental, physical, or emotional harm.

(4) There is a rebuttable presumption that a fit parent's actions and decisions regarding grandparent, great-grandparent, sibling, or step-parent visitation are not harmful to the child's mental, physical, or emotional health. The burden is on the party filing a petition under this Section to prove that the parent's actions and decisions regarding visitation will cause undue harm to the child's mental, physical, or emotional health.

(5) In determining whether to grant visitation, the court shall consider the following:

(A) the wishes of the child, taking into account the child's maturity and ability to express reasoned and independent preferences as to visitation;

(B) the mental and physical health of the child;

(C) the mental and physical health of the grandparent, great-grandparent, sibling, or step-parent;

(D) the length and quality of the prior relationship between the child and the grandparent, great-grandparent, sibling, or step-parent;

(E) the good faith of the party in filing the petition;

(F) the good faith of the person denying visitation;

(G) the quantity of the visitation time requested and the potential adverse impact that visitation would have on the child's customary activities;

(H) any other fact that establishes that the loss of the relationship between the petitioner and the child is likely to unduly harm the child's mental, physical, or emotional health; and

(I) whether visitation can be structured in a way to minimize the child's exposure to conflicts between the adults.

(6) Any visitation rights granted under this Section before the filing of a petition for adoption of the child shall automatically terminate by operation of law upon the entry of an order terminating parental rights or granting the adoption of the child, whichever is earlier. If the person or persons who adopted the child are related to the child, as defined by Section 1 of the Adoption Act, any person who was related to the child as grandparent, great-grandparent, or sibling prior to the adoption shall have standing to bring an action under this Section requesting visitation with the child.

(7) The court may order visitation rights for the grandparent, great-grandparent, sibling, or step-parent that include reasonable access without requiring overnight or possessory visitation.

(c) Visitation by grandparents, great-grandparents, step-parents, and siblings.

(1) Grandparents, great-grandparents, step-parents, and siblings of a minor child who is one year old or older may bring a petition for visitation and electronic communication under this Section if there is an unreasonable denial of visitation by a parent that causes undue mental, physical, or emotional harm to the child and if at least one of the following conditions exists:

(A) the child's other parent is deceased or has been missing for at least 90 days. For the purposes of this subsection a parent is considered to be missing if the parent's location has not been determined and the parent has been reported as missing to a law enforcement agency; or

(B) a parent of the child is incompetent as a matter of law; or

(C) a parent has been incarcerated in jail or prison for a period in excess of 90 days immediately prior to the filing of the petition; or

(D) the child's parents have been granted a dissolution of marriage or have been legally separated from each other or there is pending a dissolution proceeding involving a parent of the child or another court proceeding involving parental responsibilities or visitation of the child (other than an adoption proceeding of an unrelated child, a proceeding under Article II of the Juvenile Court Act of 1987, or an

action for an order of protection under the Illinois Domestic Violence Act of 1986 or Article 112A of the Code of Criminal Procedure of 1963) and at least one parent does not object to the grandparent, great-grandparent, step-parent, or sibling having visitation with the child. The visitation of the grandparent, great-grandparent, step-parent, or sibling must not diminish the parenting time of the parent who is not related to the grandparent, great-grandparent, step-parent, or sibling seeking visitation; or

(E) the child is born to parents who are not married to each other, the parents are not living together, and the petitioner is a grandparent, great-grandparent, step-parent, or sibling of the child, and parentage has been established by a court of competent jurisdiction.

(2) In addition to the factors set forth in subdivision (b)(5) of this Section, the court should consider:

(A) whether the child resided with the petitioner for at least 6 consecutive months with or without a parent present;

(B) whether the child had frequent and regular contact or visitation with the petitioner for at least 12 consecutive months; and

(C) whether the grandparent, great-grandparent, sibling, or step-parent was a primary caretaker of the child for a period of not less than 6 consecutive months within the 24-month period immediately preceding the commencement of the proceeding.

(3) An order granting visitation privileges under this Section is subject to subsections (c) and (d) of Section \_\_\_\_\_.

(4) A petition for visitation privileges may not be filed pursuant to this subsection (c) by the parents or grandparents of a parent of the child if parentage between the child and the related parent has not been legally established.

(d) Modification of visitation orders.

(1) Unless by stipulation of the parties, no motion to modify a grandparent, great-grandparent, sibling, or step-parent visitation order may be made earlier than 2 years after the date the order was filed, unless the court permits it to be made on the basis of affidavits that there is reason to believe the child's present environment may endanger seriously the child's mental, physical, or emotional health.

(2) A court shall not modify an order that grants visitation to a grandparent, great-grandparent, sibling, or step-parent unless it finds by clear and convincing evidence, upon the basis of facts that have arisen since the prior visitation order or that were unknown to the court at the time of entry of the prior visitation order, that a change has occurred in the circumstances of the child or his or her parent, and that the modification is necessary to protect the mental, physical, or emotional health of the child. The court shall state in its decision specific findings of fact in support of its modification or termination of the grandparent, great-grandparent, sibling, or step-parent visitation. A child's parent may always petition to modify visitation upon changed circumstances when necessary to promote the child's best interests.

(3) Notice of a motion requesting modification of a visitation order shall be provided as set forth in subsection (c) of Section 601.2 of this Act.

(4) Attorney's fees and costs shall be assessed against a party seeking modification of the visitation order if the court finds that the modification action is vexatious and constitutes harassment.

(e) No child's grandparent, great-grandparent, sibling, or step-parent, or any person to whom the court is considering granting visitation privileges pursuant to subsection (d) of Section \_\_\_\_\_ who was convicted of any offense involving an illegal sex act perpetrated upon a victim less than 18 years of age including, but not limited to, offenses for violations of Section \_\_\_\_\_, or Article 12 of the Penal Code, is entitled to visitation while incarcerated or while on parole, probation, conditional discharge, periodic imprisonment, or mandatory supervised release for that offense, and upon discharge from incarceration for a misdemeanor offense or upon discharge from parole, probation, conditional discharge, periodic imprisonment, or mandatory supervised release for a felony offense. Visitation shall be denied until the person successfully completes a treatment program approved by the court. Upon completion of treatment, the court may deny visitation based on the factors listed in subdivision \_\_\_\_\_ of Section \_\_\_\_\_ of this Act.

(f) No child's grandparent, great-grandparent, sibling, or step-parent, or any person to whom the court is considering granting visitation privileges pursuant to subsection (d) of Section \_\_\_\_\_ may be granted visitation if he or she has been convicted of first degree murder of a parent, grandparent, great-grandparent, or sibling of the child who is the subject of the visitation request. Pursuant to a motion to modify visitation, the court shall revoke visitation rights previously granted to any person who would otherwise be entitled to petition for visitation rights under this Section or granted visitation under subsection (d) of Section \_\_\_\_\_, if the person has been convicted of first degree murder of a parent, grandparent, great-grandparent, or sibling of the child who is the subject of the visitation order. Until an order is entered pursuant to this subsection, no person may visit, with the child present, a person who has been convicted of first degree murder of the parent, grandparent, great-grandparent, or sibling of the child without the consent of the child's parent, other than a parent convicted of first degree murder as set forth herein, or legal guardian.

*Section \_\_\_\_\_. Parenting plan.*

(a) Filing of parenting plan. All parents, within 30 days filing of any petition for allocation of parental responsibilities, must commence preparation of a parenting plan to be filed with the court within 60 days, either between themselves or with the assistance of the Center for Family Relationships.

(b) No parenting plan filed. In the absence of filing of a parenting plans, a court must conduct an evidentiary hearing to allocate parental responsibilities.

(c) Parents' agreement on parenting plan. The parenting plan must be in writing and signed by both parents. The parents must submit the parenting plan to the Family Relationships Center for approval within 90 days after service of a petition for allocation of parental responsibilities or the filing of an dissolution or parental relationship action. The agreement is binding upon the court unless the Center for Family Relationships has found, after considering the circumstances of the parties and any other relevant evidence produced by the parties, that the agreement is unconscionable. If a court does not approve the parenting plan, the court shall make express findings of the reason or reasons for its refusal to approve the plan. The court, on its own motion, may conduct an evidentiary hearing to determine whether the parenting plan is in the child's best interests.

(d) Parenting plan contents. At a minimum, a parenting plan must set forth the following:

(1) an allocation of significant decision-making responsibilities;

(2) provisions for the child's living arrangements and for each parent's parenting time, including either:

(A) a schedule that designates in which parent's home the minor child will reside on given days; or

(B) a formula or method for determining such a schedule in sufficient detail to be enforced in a subsequent proceeding;

(3) a mediation provision addressing any proposed reallocation of parenting time or regarding the terms of allocation of parental responsibilities, except that this provision is not required if one parent is allocated all significant decision-making responsibilities;

(4) each parent's right of access to medical, dental, and psychological records, child care records, and school and extracurricular records, reports, and schedules, unless expressly denied by a court order or denied under subsection (g) of Section \_\_\_\_\_;

(5) a designation of the parent who will be denominated as the parent with the majority of parenting time for purposes of Section \_\_\_\_\_;

(6) the child's residential address for school enrollment purposes only;

(7) each parent's residence address and phone number, and each parent's place of employment and employment address and phone number;

(8) a requirement that a parent changing his or her residence provide at least 60 days prior written notice of the change to any other parent under the parenting plan or allocation judgment, unless such notice is impracticable or unless otherwise ordered by the court. If such notice is impracticable, written notice shall be given at the earliest date practicable. At a minimum, the notice shall set forth the following:

(A) the intended date of the change of residence; and

(B) the address of the new residence;

(9) provisions requiring each parent to notify the other of emergencies, health care, travel plans, or other significant child-related issues;

(10) transportation arrangements between the parents;

(11) provisions for communications, including electronic communications, with the child during the other parent's parenting time;

(12) provisions for resolving issues arising from a parent's future relocation, if applicable;

(13) provisions for future modifications of the parenting plan, if specified events occur;

(14) provisions for the exercise of the right of first refusal, if so desired, that are consistent with the best interests of the minor child; provisions in the plan for the exercise of the right of first refusal must include:

(i) the length and kind of child-care requirements invoking the right of first refusal;

(ii) notification to the other parent and for his or her response;

(iii) transportation requirements; and

(iv) any other provision related to the exercise of the right of first refusal necessary to protect and promote the best interests of the minor child; and

(15) any other provision that addresses the child's best interests or that will otherwise facilitate cooperation between the parents.

The personal information under items (6), (7), and (8) of this subsection is not required if there is evidence of or the parenting plan states that there is a history of domestic violence or abuse, or it is shown that the release of the information is not in the child's or parent's best interests.

(g) A court shall conduct a trial or hearing, if the parties are referred by the Center, to determine a plan which maximizes the child's relationship and access to both parents and shall ensure that the access and the overall plan are in the best interests of the child. The court shall take the parenting plans into consideration when determining parenting time and responsibilities at trial or hearing.

(h) A court may consider, consistent with the best interests of the child as defined in Section \_\_\_\_\_ of this Act, whether to award to one or both of the parties the right of first refusal in accordance with Section \_\_\_\_\_ of this Act

*Section \_\_\_\_\_. Access to health care, child care, and school records by parents.*

(a) Notwithstanding any other provision of law, access to records and information pertaining to a child including, but not limited to, medical, dental, child care, and school records shall not be denied to a parent for the reason that such parent has not been allocated parental responsibility. A parent who is not allocated parenting time (not denied parental responsibility) is not entitled to access to the child's school or health care records unless a court finds that it is in the child's best interests to provide those records to the parent.

(b) Health care professionals and health care providers shall grant access to health care records and information pertaining to a child to both parents, unless the health care professional or health care provider receives a court order or judgment that denies access to a specific individual. Except as may be provided by court order, no parent who is a named respondent in an order of protection issued pursuant to the Domestic Violence Prevention Act or the Penal Code shall have access to the health care records of a child who is a protected person under the order of protection provided the health care professional or health care provider has received a copy of the order of protection. Access to health care records is denied under this Section for as long as the order of protection remains in effect as specified in the order of protection or as otherwise determined by court order.

*Section \_\_\_\_\_. Restriction of parental responsibilities.*

(a) After a recommended hearing, if a court finds by a preponderance of the evidence that a parent engaged in any conduct that seriously endangered the child's mental, moral, or physical health or that significantly impaired the child's emotional development, the court shall enter orders as necessary to protect the child. Such orders may include, but are not limited to, orders for one or more of the following:

(1) a reduction, elimination, or other adjustment of the parent's decision-making responsibilities or parenting time, or both decision-making responsibilities and parenting time;

(2) supervision, including ordering the Department of Family Services to exercise continuing supervision under Section \_\_\_\_ of the Children and Family Services Act;

(3) requiring the exchange of the child between the parents through an intermediary or in a protected setting;

(4) restraining a parent's communication with or proximity to the other parent or the child;

(5) requiring a parent to abstain from possessing or consuming alcohol or non-prescribed drugs while exercising parenting time with the child and within a specified period immediately preceding the exercise of parenting time;

(6) restricting the presence of specific persons while a parent is exercising parenting time with the child;

(7) requiring a parent to post a bond to secure the return of the child following the parent's exercise of parenting time or to secure other performance required by the court;

(8) requiring a parent to complete a treatment program for perpetrators of abuse, for drug or alcohol abuse, or for other behavior that is the basis for restricting parental responsibilities under this Section; and

(9) any other constraints or conditions that the court deems necessary to provide for the child's safety or welfare.

(b) A court may modify an order restricting parental responsibilities if, after a hearing, the court finds by a preponderance of the evidence that a modification is in the child's best interests based on (i) a change of circumstances that occurred after the entry of an order restricting parental responsibilities; or (ii) conduct of which the court was previously unaware that seriously endangers the child. In determining whether to modify an order under this subsection, the court must consider factors that include, but need not be limited to, the following:

(1) abuse, neglect, or abandonment of the child;

(2) abusing or allowing abuse of another person that had an impact upon the child;

(3) use of drugs, alcohol, or any other substance in a way that interferes with the parent's ability to perform caretaking functions with respect to the child; and

(4) persistent continuing interference with the other parent's access to the child, except for actions taken with a reasonable, good-faith belief that they are necessary to protect the child's safety pending

adjudication of the facts underlying that belief, provided that the interfering parent initiates a proceeding to determine those facts as soon as practicable.

(c) An order granting parenting time to a parent or visitation to another person may be revoked by the court if that parent or other person is found to have knowingly used his or her parenting time or visitation to facilitate contact between the child and a parent who has been barred from contact with the child or to have knowingly used his or her parenting time or visitation to facilitate contact with the child that violates any restrictions imposed on a parent's parenting time by a court of competent jurisdiction. Nothing in this subsection limits a court's authority to enforce its orders in any other manner authorized by law.

(d) If parenting time of a parent is restricted, an order granting visitation to a non-parent with a child or an order granting parenting time to the other parent shall contain the following language:

"If a person granted parenting time or visitation under this order uses that time to facilitate contact between the child and a parent whose parenting time is restricted, or if such a person violates any restrictions placed on parenting time or visitation by the court, the parenting time or visitation granted under this order shall be revoked until further order of court."

(e) A parent who, after a hearing, is determined by the court to have been convicted of any offense involving an illegal sex act perpetrated upon a victim less than 18 years of age, including but not limited to an offense under the Penal Code, is not entitled to parenting time while incarcerated or while on parole, probation, conditional discharge, periodic imprisonment, or mandatory supervised release for a felony offense, until the parent complies with such terms and conditions as the court determines are in the child's best interests, taking into account the exact nature of the offense and what, if any, treatment in which the parent successfully participated.

(f) A parent may not, while the child is present, visit any person granted visitation or parenting time who has been convicted of first degree murder, unless the court finds, after considering all relevant factors, including those set forth in subsection (b) of Section \_\_\_\_\_, that it would be in the child's best interests to allow the child to be present during such a visit.

*Section \_\_\_\_\_. Interviews; evaluations; investigation.*

(a) Court's interview of child. A court may interview the child in chambers to ascertain the child's wishes as to the allocation of parental responsibilities. Counsel shall be present at the interview unless otherwise agreed upon by the parties. The entire interview shall be recorded by a court reporter. The transcript of the interview shall be filed under seal and released only upon order of the court. The cost of the court reporter and transcript shall be paid by the court.

(b) Court's professional. After consulting with the Center for Family Relationships person initially assigned to the case referred to the court for trial, the court may seek the advice of any professional, whether or not regularly employed by the court, to assist the court in determining the child's best interests. The advice to the court shall be in writing and sent by the professional to counsel for the parties and to the court, under seal. The writing may be admitted into evidence without testimony from its author, unless a party objects. A professional consulted by the court shall testify as the court's witness and be subject to cross-examination. The court shall order all costs and fees of the professional to be paid by one or more of the parties, subject to reallocation in accordance with subsection (a) of Section 508.



The professional's report must, at a minimum, set forth the following:

- (1) a description of the procedures employed during the evaluation;
- (2) a report of the data collected;
- (3) all test results;
- (4) any conclusions of the professional relating to the allocation of parental responsibilities under Sections 602.5 and 602.7;
- (5) any recommendations of the professional concerning the allocation of parental responsibilities or the child's relocation; and
- (6) an explanation of any limitations in the evaluation or any reservations of the professional regarding the resulting recommendations.

The professional shall send his or her report to all attorneys of record, and to any party not represented, at least 60 days before the hearing on the allocation of parental responsibilities. The court shall examine and consider the professional's report only after it has been admitted into evidence or after the parties have waived their right to cross-examine the professional.

(c) Evaluation by a party's retained professional. In a proceeding to allocate parental responsibilities or to relocate a child, upon notice and motion made by a parent or any party to the litigation within a reasonable time before trial, the court shall order an evaluation to assist the court in determining the child's best interests unless the court finds that an evaluation under this Section is untimely or not in the best interests of the child. The evaluation may be in place of or in addition to any advice given to the court by a professional under subsection (b). A motion for an evaluation under this subsection must, at a minimum, identify the proposed evaluator and the evaluator's specialty or discipline. An order for an evaluation under this subsection must set forth the evaluator's name, address, and telephone number and the time, place, conditions, and scope of the evaluation. No person shall be required to travel an unreasonable distance for the evaluation. The party requesting the evaluation shall pay the evaluator's fees and costs unless otherwise ordered by the court.

The evaluator's report must, at a minimum, set forth the following:

- (1) a description of the procedures employed during the evaluation;
- (2) a report of the data collected;
- (3) all test results;
- (4) any conclusions of the evaluator relating to the allocation of parental responsibilities under Sections \_\_\_\_\_ and \_\_\_\_\_;
- (5) any recommendations of the evaluator concerning the allocation of parental responsibilities or the child's relocation; and
- (6) an explanation of any limitations in the evaluation or any reservations of the evaluator regarding the resulting recommendations.

A party who retains a professional to conduct an evaluation under this subsection shall cause the evaluator's written report to be sent to the attorneys of record no less than 60 days before the hearing on the allocation of parental responsibilities, unless otherwise ordered by the court; if a party fails to comply with this provision, the court may not admit the evaluator's report into evidence and may not allow the evaluator to testify.

The party calling an evaluator to testify at trial shall disclose the evaluator as a controlled expert witness in accordance with the Superior Court Rules.

Any party to the litigation may call the evaluator as a witness. That party shall pay the evaluator's fees and costs for testifying, unless otherwise ordered by the court.

(d) Investigation. Upon notice and a motion by a parent or any party to the litigation, or upon the court's own motion, the court may order an investigation and report to assist the court in allocating parental responsibilities. The investigation may be made by any agency, private entity, or individual deemed appropriate by the court. The agency, private entity, or individual appointed by the court must have expertise in the area of allocation of parental responsibilities. The court shall specify the purpose and scope of the investigation.

The investigator's report must, at a minimum, set forth the following:

- (1) a description of the procedures employed during the investigation;
- (2) a report of the data collected;
- (3) all test results;
- (4) any conclusions of the investigator relating to the allocation of parental responsibilities under Sections \_\_\_\_\_ and \_\_\_\_\_;
- (5) any recommendations of the investigator concerning the allocation of parental responsibilities or the child's relocation; and
- (6) an explanation of any limitations in the investigation or any reservations of the investigator regarding the resulting recommendations.

The investigator shall send his or her report to all attorneys of record, and to any party not represented, at least 60 days before the hearing on the allocation of parental responsibilities. The court shall examine and consider the investigator's report only after it has been admitted into evidence or after the parties have waived their right to cross-examine the investigator.

The investigator shall make available to all attorneys of record, and to any party not represented, the investigator's file, and the names and addresses of all persons whom the investigator has consulted, except that if such disclosure would risk abuse to the party or any member of the party's immediate family or household or reveal the confidential address of a shelter for domestic violence victims, that address may be omitted from the report. Any party to the proceeding may call the investigator, or any person consulted by the investigator as a court's witness, for cross-examination. No fees shall be paid for any investigation by a governmental agency. The fees incurred by any other investigator shall be allocated in accordance with Section \_\_\_\_\_.

*Section \_\_\_\_\_. Hearings.*

(a) Proceedings referred to the court by the Center for Family Relationships to allocate parental responsibilities shall receive priority in being set for hearing.

(b) A court, without a jury, shall determine questions of law and fact.

(c) Previous statements made by the child relating to any allegations that the child is an abused or neglected child within the meaning of the Abused and Neglected Child Reporting Act, or an abused or neglected minor within the meaning of the \_\_\_\_\_, shall be admissible in evidence in a hearing concerning allocation of parental responsibilities in accordance with Section 11.1 of the Abused and Neglected Child Reporting Act. No such statement, however, if uncorroborated and not subject to cross-examination, shall be sufficient in itself to support a finding of abuse or neglect.

(d) If the court finds that a public hearing may be detrimental to the child's best interests, the court shall exclude the public from the hearing, but the court may admit any person having:

(1) a direct and legitimate interest in the case; or

(2) a legitimate educational or research interest in the work of the court, but only with the permission of both parties and subject to court approval.

(e) The court may make an appropriate order sealing the records of any interview, report, investigation, or testimony.

*Section \_\_\_\_\_. Designation of custodian for purposes of other statutes.*

Solely for the purposes of all State and federal statutes that require a designation or determination of custody or a custodian, a parenting plan shall designate the parent who is allocated the majority of parenting time. This designation shall not affect parents' rights and responsibilities under the parenting plan. For purposes of Section \_\_\_\_\_ of the Education Code only, the parent with the majority of parenting time is considered to have legal custody.

*Section \_\_\_\_\_. Abuse of allocated parenting time.*

(a) A court shall provide an expedited procedure for the enforcement of allocated parenting time when such an action has been referred by the Center for Family Relationships .

(b) An action for the enforcement of allocated parenting time may be commenced by a parent or a person appointed under Section \_\_\_ by filing a petition with the Center for Family Relationships setting forth: (i) the petitioner's name and residence address or mailing address, except that if the petition states that disclosure of petitioner's address would risk abuse of petitioner or any member of petitioner's family or household or reveal the confidential address of a shelter for domestic violence victims, that address may be omitted from the petition; (ii) the respondent's name and place of residence, place of employment, or mailing address; (iii) the terms of the parenting plan or allocation judgment then in effect; (iv) the nature of the violation of the allocation of parenting time, giving dates and other relevant information; and (v) that a reasonable attempt was made to resolve the dispute.

(c) If referred to a court by the Center for Family Relationships, and the court finds by a preponderance of the evidence that a parent has not complied with allocated parenting time according to an approved parenting plan or a court order, the court, in the child's best interests, shall issue an order that may include one or more of the following:

(1) an imposition of additional terms and conditions consistent with the previous allocation of parenting time or other order;

(2) a requirement that either or both of the parties attend a parental education program at the expense of the non-complying parent;

(3) upon consideration of all relevant factors, particularly a history or possibility of domestic violence, a requirement that the parties participate in family or individual counseling, the expense of which shall be allocated by the court;

(4) a requirement that the non-complying parent post a cash bond or other security to ensure future compliance, including a provision that the bond or other security may be forfeited to the other parent for payment of expenses on behalf of the child as the court shall direct;

(5) a requirement that makeup parenting time be provided for the aggrieved parent or child under the following conditions:

(A) that the parenting time is of the same type and duration as the parenting time that was denied, including but not limited to parenting time during weekends, on holidays, and on weekdays and during times when the child is not in school;

(B) that the parenting time is made up within 6 months after the noncompliance occurs, unless the period of time or holiday cannot be made up within 6 months, in which case the parenting time shall be made up within one year after the noncompliance occurs;

(6) a finding that the non-complying parent is in contempt of court;

(7) an imposition on the non-complying parent of an appropriate civil fine per incident of denied parenting time;

(8) a requirement that the non-complying parent reimburse the other parent for all reasonable expenses incurred as a result of the violation of the parenting plan or court order; and

(9) any other provision that may promote the child's best interests.

(d) In addition to any other order entered under subsection (c), except for good cause shown, the court shall order a parent who has failed to provide allocated parenting time or to exercise allocated parenting time to pay the aggrieved party his or her reasonable attorney's fees, court costs, and expenses associated with an action brought under this Section. If the court finds that the respondent in an action brought under this Section has not violated the allocated parenting time, the court may order the petitioner to pay the respondent's reasonable attorney's fees, court costs, and expenses incurred in the action.

(e) Nothing in this Section precludes a party from maintaining any other action as provided by law.

(f) When the court issues an order holding a party in contempt for violation of a parenting time order and finds that the party engaged in parenting time abuse, the court may order one or more of the following:

(1) Suspension of a party's California driving privileges pursuant to Section \_\_\_ of the California Vehicle Code until the court determines that the party is in compliance with the parenting time order. The

court may also order that a party be issued a family financial responsibility driving permit that would allow limited driving privileges for employment, for medical purposes, and to transport a child to or from scheduled parenting time in order to comply with a parenting time order in accordance with subsection (a-1) of Section \_\_\_\_\_ of the California Vehicle Code.

(2) Placement of a party on probation with such conditions of probation as the court deems advisable.

(3) Sentencing of a party to periodic imprisonment for a period not to exceed 6 months; provided, that the court may permit the party to be released for periods of time during the day or night to:

(A) work; or

(B) conduct a business or other self-employed occupation.

(4) Find that a party in engaging in parenting time abuse is guilty of a petty offense and should be fined an amount of no more than \$500 for each finding of parenting time abuse.

(g) When the court issues an order holding a party in contempt of court for violation of a parenting order, the clerk shall transmit a copy of the contempt order to the sheriff of the county. The sheriff shall furnish a copy of each contempt order to the Department of State Police on a daily basis in the form and manner required by the Department. The Department shall maintain a complete record and index of the contempt orders and make this data available to all local law enforcement agencies.

(h) Nothing contained in this Section shall be construed to limit the court's contempt power.

*Section \_\_\_\_\_. Parent's relocation.*

(a) A parent's relocation constitutes a substantial change in circumstances for purposes of Section \_\_\_\_ re modification.

(b) A parent who has been allocated a majority of parenting time or either parent who has been allocated equal parenting time may seek to relocate with a child.

(c) A parent intending a relocation, as that term is defined in paragraph (1), (2), or (3) of subsection (g) of Section \_\_\_\_\_ of this Act, must provide written notice of the relocation to the other parent under the parenting plan or allocation judgment. A copy of the notice required under this Section shall be filed with the clerk of the circuit court. The court may waive or seal some or all of the information required in the notice if there is a history of domestic violence.

(d) The notice must provide at least 60 days' written notice before the relocation unless such notice is impracticable (in which case written notice shall be given at the earliest date practicable) or unless otherwise ordered by the court. At a minimum, the notice must set forth the following:

(1) the intended date of the parent's relocation;

(2) the address of the parent's intended new residence, if known; and

(3) the length of time the relocation will last, if the relocation is not for an indefinite or permanent period.

The court may consider a parent's failure to comply with the notice requirements of this Section without good cause (i) as a factor in determining whether the parent's relocation is in good faith; and (ii) as a basis for awarding reasonable attorney's fees and costs resulting from the parent's failure to comply with these provisions.

(e) If the non-relocating parent signs the notice that was provided pursuant to subsection (c) and the relocating parent files the notice with the court, relocation shall be allowed without any further court action. The court shall modify the parenting plan or allocation judgment to accommodate a parent's relocation as agreed by the parents, as long as the agreed modification is in the child's best interests.

(f) If the non-relocating parent objects to the relocation, fails to sign the notice provided under subsection (c), or the parents cannot agree on modification of the parenting plan or allocation judgment, the parent seeking relocation must file a petition seeking permission to relocate.

(g) The court shall modify the parenting plan or allocation judgment in accordance with the child's best interests. The court shall consider the following factors:

(1) the circumstances and reasons for the intended relocation;

(2) the reasons, if any, why a parent is objecting to the intended relocation;

(3) the history and quality of each parent's relationship with the child and specifically whether a parent has substantially failed or refused to exercise the parental responsibilities allocated to him or her under the parenting plan or allocation judgment;

(4) the educational opportunities for the child at the existing location and at the proposed new location;

(5) the presence or absence of extended family at the existing location and at the proposed new location;

(6) the anticipated impact of the relocation on the child;

(7) whether the court will be able to fashion a reasonable allocation of parental responsibilities between all parents if the relocation occurs;

(8) the wishes of the child, taking into account the child's maturity and ability to express reasoned and independent preferences as to relocation;

(9) possible arrangements for the exercise of parental responsibilities appropriate to the parents' resources and circumstances and the developmental level of the child;

(10) minimization of the impairment to a parent-child relationship caused by a parent's relocation; and

(11) any other relevant factors bearing on the child's best interests.

(h) If a parent moves with the child 25 miles or less from the child's current primary residence to a new primary residence outside California, California continues to be the home state of the child under subsection (c) of Section 202 of the Uniform Child-Custody Jurisdiction and Enforcement Act. Any

subsequent move from the new primary residence outside California greater than 25 miles from the child's original primary residence in California must be in compliance with the provisions of this Section.

*Section \_\_\_\_\_. Notification of remarriage or residency with a sex offender.*

A parent who intends to marry or reside with a sex offender, and knows or should know that the person with whom he or she intends to marry or reside is a sex offender, shall provide reasonable notice to the other parent with whom he or she has a minor child prior to the marriage or the commencement of the residency.

*Section \_\_\_\_\_. Modification.*

(a) Unless by stipulation of the parties or except as provided in subsection (b) of this Section or Section 603.10 of this Act, no motion to modify an order allocating parental responsibilities may be made earlier than 2 years after its date, unless the court permits it to be made on the basis of affidavits that there is reason to believe the child's present environment may endanger seriously his or her mental, moral, or physical health or significantly impair the child's emotional development.

(b) A motion to modify an order allocating parental responsibilities may be made at any time by a party who has been informed of the existence of facts requiring notice to be given under Section 609.5 of this Act.

(c) Except in a case concerning the modification of any restriction of parental responsibilities under Section 603.10, the court shall modify a parenting plan or allocation judgment when necessary to serve the child's best interests if the court finds, by a preponderance of the evidence, that on the basis of facts that have arisen since the entry of the existing parenting plan or allocation judgment or were not anticipated therein, a substantial change has occurred in the circumstances of the child or of either parent and that a modification is necessary to serve the child's best interests.

(d) The court shall modify a parenting plan or allocation judgment in accordance with a parental agreement, unless it finds that the modification is not in the child's best interests.

(e) The court may modify a parenting plan or allocation judgment without a showing of changed circumstances if (i) the modification is in the child's best interests; and (ii) any of the following are proven as to the modification:

(1) the modification reflects the actual arrangement under which the child has been receiving care, without parental objection, for the 6 months preceding the filing of the petition for modification, provided that the arrangement is not the result of a parent's acquiescence resulting from circumstances that negated the parent's ability to give meaningful consent;

(2) the modification constitutes a minor modification in the parenting plan or allocation judgment;

(3) the modification is necessary to modify an agreed parenting plan or allocation judgment that the court would not have ordered or approved under Section 602.5 or 602.7 had the court been aware of the circumstances at the time of the order or approval; or

(4) the parties agree to the modification.

(f) Attorney's fees and costs shall be assessed against a party seeking modification if the court finds that the modification action is vexatious or constitutes harassment. If the court finds that a parent has

repeatedly filed frivolous motions for modification, the court may bar the parent from filing a motion for modification for a period of time.