

GEORGIA CODE

TITLE 19. DOMESTIC RELATIONS
CHAPTER 9. CHILD CUSTODY PROCEEDINGS
ARTICLE 1. GENERAL PROVISIONS

O.C.G.A. § 19-9-1 et seq (2016)

§ 19-9-1. Parenting plans; requirements for plan

(a) Except when a parent seeks emergency relief for family violence pursuant to Code Section 19-13-3 or 19-13-4, in all cases in which the custody of any child is at issue between the parents, each parent shall prepare a parenting plan or the parties may jointly submit a parenting plan. It shall be in the court's discretion as to when a party shall be required to submit a parenting plan to the court. A parenting plan shall be required for permanent custody and modification actions and in the court's discretion may be required for temporary hearings. The final order in any legal action involving the custody of a child, including modification actions, shall incorporate a permanent parenting plan as further set forth in this Code section; provided, however, that unless otherwise ordered by the court, a separate court order exclusively devoted to a parenting plan shall not be required.

(b) (1) Unless otherwise ordered by the court, a parenting plan shall include the following:

(A) A recognition that a close and continuing parent-child relationship and continuity in the child's life will be in the child's best interest;

(B) A recognition that the child's needs will change and grow as the child matures and demonstrate that the parents will make an effort to parent that takes this issue into account so that future modifications to the parenting plan are minimized;

(C) A recognition that a parent with physical custody will make day-to-day decisions and emergency decisions while the child is residing with such parent; and

(D) That both parents will have access to all of the child's records and information, including, but not limited to, education, health, health insurance, extracurricular activities, and religious communications.

(2) Unless otherwise ordered by the court, or agreed upon by the parties, a parenting plan shall include, but not be limited to:

(A) Where and when a child will be in each parent's physical care, designating where the child will spend each day of the year;

(B) How holidays, birthdays, vacations, school breaks, and other special occasions will be spent with each parent including the time of day that each event will begin and end;

(C) Transportation arrangements including how the child will be exchanged between the parents, the location of the exchange, how the transportation costs will be paid, and any other

matter relating to the child spending time with each parent;

(D) Whether supervision will be needed for any parenting time and, if so, the particulars of the supervision;

(E) An allocation of decision-making authority to one or both of the parents with regard to the child's education, health, extracurricular activities, and religious upbringing, and if the parents agree the matters should be jointly decided, how to resolve a situation in which the parents disagree on resolution;

(F) What, if any, limitations will exist while one parent has physical custody of the child in terms of the other parent contacting the child and the other parent's right to access education, health, extracurricular activity, and religious information regarding the child; and

(G) If a military parent is a party in the case:

(i) How to manage the child's transition into temporary physical custody to a nondeploying parent if a military parent is deployed;

(ii) The manner in which the child will maintain continuing contact with a deployed parent;

(iii) How a deployed parent's parenting time may be delegated to his or her extended family;

(iv) How the parenting plan will be resumed once the deployed parent returns from deployment; and

(v) How divisions (i) through (iv) of this subparagraph serve the best interest of the child.

(c) If the parties cannot reach agreement on a permanent parenting plan, each party shall file and serve a proposed parenting plan on or before the date set by the court. Failure to comply with filing a parenting plan may result in the court adopting the plan of the opposing party if the judge finds such plan to be in the best interests of the child.

§ 19-9-1.1. Parental agreement to binding arbitration on issue of child custody and related matters

In all proceedings under this article, it shall be expressly permissible for the parents of a child to agree to binding arbitration on the issue of child custody and matters relative to visitation, parenting time, and a parenting plan. The parents may select their arbiter and decide which issues will be resolved in binding arbitration. The arbiter's decisions shall be incorporated into a final decree awarding child custody unless the judge makes specific written factual findings that under the circumstances of the parents and the child the arbiter's award would not be in the best interests of the child. In its judgment, the judge may supplement the arbiter's decision on issues not covered by the binding arbitration.

§ 19-9-1.2. Required domestic relations case filing information form

Pursuant to Code Section 9-11-3, and in addition to the filing requirements contained in Code Section 19-6-15, in all proceedings under this article the plaintiff shall file a domestic relations case filing information form as set forth in Code Section 9-11-133.

§ 19-9-2. Right of surviving parent to custody of child; discretion of judge

Upon the death of either parent, the survivor is entitled to custody of the child; provided, however, that the judge, upon petition, may exercise discretion as to the custody of the child, looking solely to the child's best interest and welfare.

§ 19-9-3. Discretion of judge in custody disputes; right of child 14 years old or older to select custodial parent; consideration of child's educational needs; review of visitation rights; grandparent visitation; policy; retention of jurisdiction; attorney's fees; filing of domestic relations final disposition form; application to military parents

(a) (1) In all cases in which the custody of any child is at issue between the parents, there shall be no prima-facie right to the custody of the child in the father or mother. There shall be no presumption in favor of any particular form of custody, legal or physical, nor in favor of either parent. Joint custody may be considered as an alternative form of custody by the judge and the judge at any temporary or permanent hearing may grant sole custody, joint custody, joint legal custody, or joint physical custody as appropriate.

(2) The judge hearing the issue of custody shall make a determination of custody of a child and such matter shall not be decided by a jury. The judge may take into consideration all the circumstances of the case, including the improvement of the health of the party seeking a change in custody provisions, in determining to whom custody of the child should be awarded. The duty of the judge in all such cases shall be to exercise discretion to look to and determine solely what is for the best interest of the child and what will best promote the child's welfare and happiness and to make his or her award accordingly.

(3) In determining the best interests of the child, the judge may consider any relevant factor including, but not limited to:

(A) The love, affection, bonding, and emotional ties existing between each parent and the child;

(B) The love, affection, bonding, and emotional ties existing between the child and his or her siblings, half siblings, and stepsiblings and the residence of such other children;

(C) The capacity and disposition of each parent to give the child love, affection, and guidance and to continue the education and rearing of the child;

(D) Each parent's knowledge and familiarity of the child and the child's needs;

(E) The capacity and disposition of each parent to provide the child with food, clothing, medical care, day-to-day needs, and other necessary basic care, with consideration made for the potential payment of child support by the other parent;

(F) The home environment of each parent considering the promotion of nurturance and safety of the child rather than superficial or material factors;

(G) The importance of continuity in the child's life and the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;

(H) The stability of the family unit of each of the parents and the presence or absence of each parent's support systems within the community to benefit the child;

(I) The mental and physical health of each parent;

(J) Each parent's involvement, or lack thereof, in the child's educational, social, and extracurricular activities;

(K) Each parent's employment schedule and the related flexibility or limitations, if any, of a parent to care for the child;

(L) The home, school, and community record and history of the child, as well as any health or educational special needs of the child;

(M) Each parent's past performance and relative abilities for future performance of parenting responsibilities;

(N) The willingness and ability of each of the parents to facilitate and encourage a close and continuing parent-child relationship between the child and the other parent, consistent with the best interest of the child;

(O) Any recommendation by a court appointed custody evaluator or guardian ad litem;

(P) Any evidence of family violence or sexual, mental, or physical child abuse or criminal history of either parent; and

(Q) Any evidence of substance abuse by either parent.

(4) In addition to other factors that a judge may consider in a proceeding in which the custody of a child or visitation or parenting time by a parent is at issue and in which the judge has made a finding of family violence:

(A) The judge shall consider as primary the safety and well-being of the child and of the parent who is the victim of family violence;

(B) The judge shall consider the perpetrator's history of causing physical harm, bodily injury, assault, or causing reasonable fear of physical harm, bodily injury, or assault to another person;

(C) If a parent is absent or relocates because of an act of domestic violence by the other parent, such absence or relocation for a reasonable period of time in the circumstances shall not be deemed an abandonment of the child for the purposes of custody determination; and

(D) The judge shall not refuse to consider relevant or otherwise admissible evidence of acts of family violence merely because there has been no previous finding of family violence. The judge may, in addition to other appropriate actions, order supervised visitation or parenting time pursuant to Code Section 19-9-7.

(5) In all custody cases in which the child has reached the age of 14 years, the child shall have the right to select the parent with whom he or she desires to live. The child's selection for purposes of custody shall be presumptive unless the parent so selected is determined not to be in the best interests of the child. The parental selection by a child who has reached the age of 14 may, in and of itself, constitute a material change of condition or circumstance in any action seeking a modification or change in the custody of that child; provided, however, that such selection may only be made once within a period of two years from the date of the previous selection and the best interests of the child standard shall apply.

(6) In all custody cases in which the child has reached the age of 11 but not 14 years, the judge shall consider the desires and educational needs of the child in determining which parent shall have custody. The judge shall have complete discretion in making this determination, and the child's desires shall not be controlling. The judge shall further have broad discretion as to how the child's desires are to be considered, including through the report of a guardian ad litem. The best interests of the child standard shall be controlling. The parental selection of a child who has reached the age of 11 but not 14 years shall not, in and of itself, constitute a material change of condition or circumstance in any action seeking a modification or change in the custody of that child. The judge may issue an order granting temporary custody to the selected parent for a trial period not to exceed six months regarding the custody of a child who has reached the age of 11 but not 14 years where the judge hearing the case determines such a temporary order is appropriate.

(7) The judge is authorized to order a psychological custody evaluation of the family or an independent medical evaluation. In addition to the privilege afforded a witness, neither a court appointed custody evaluator nor a court appointed guardian ad litem shall be subject to civil liability resulting from any act or failure to act in the performance of his or her duties unless such act or failure to act was in bad faith.

(8) If requested by any party on or before the close of evidence in a contested hearing, the permanent court order awarding child custody shall set forth specific findings of fact as to the basis for the judge's decision in making an award of custody including any relevant factor relied upon by the judge as set forth in paragraph (3) of this subsection. Such order shall set forth in detail why the court awarded custody in the manner set forth in the order and, if joint legal custody is awarded, a manner in which final decision making on matters affecting the child's education, health, extracurricular activities, religion, and any other important matter shall be decided. Such order shall be filed within 30 days of the final hearing in the custody case, unless extended by order of the judge with the agreement of the parties.

(b) In any case in which a judgment awarding the custody of a child has been entered, on the motion of any party or on the motion of the judge, that portion of the judgment effecting visitation rights between the parties and their child or parenting time may be subject to review and modification or alteration without the necessity of any showing of a change in any material conditions and circumstances of either party or the child, provided that the review and

modification or alteration shall not be had more often than once in each two-year period following the date of entry of the judgment. However, this subsection shall not limit or restrict the power of the judge to enter a judgment relating to the custody of a child in any new proceeding based upon a showing of a change in any material conditions or circumstances of a party or the child. A military parent's absences caused by the performance of his or her deployments, or the potential for future deployments, shall not be the sole factor considered in supporting a claim of any change in material conditions or circumstances of either party or the child; provided, however, that the court may consider evidence of the effect of a deployment in assessing a claim of any change in material conditions or circumstances of either party or the child.

(c) In the event of any conflict between this Code section and any provision of Article 3 of this chapter, Article 3 shall apply.

(d) It is the express policy of this state to encourage that a child has continuing contact with parents and grandparents who have shown the ability to act in the best interest of the child and to encourage parents to share in the rights and responsibilities of raising their child after such parents have separated or dissolved their marriage or relationship.

(e) Upon the filing of an action for a change of child custody, the judge may in his or her discretion change the terms of custody on a temporary basis pending final judgment on such issue. Any such award of temporary custody shall not constitute an adjudication of the rights of the parties.

(f) (1) In any case in which a judgment awarding the custody of a child has been entered, the court entering such judgment shall retain jurisdiction of the case for the purpose of ordering the custodial parent to notify the court of any changes in the residence of the child.

(2) In any case in which visitation rights or parenting time has been provided to the noncustodial parent and the court orders that the custodial parent provide notice of a change in address of the place for pickup and delivery of the child for visitation or parenting time, the custodial parent shall notify the noncustodial parent, in writing, of any change in such address. Such written notification shall provide a street address or other description of the new location for pickup and delivery so that the noncustodial parent may exercise such parent's visitation rights or parenting time.

(3) Except where otherwise provided by court order, in any case under this subsection in which a parent changes his or her residence, he or she must give notification of such change to the other parent and, if the parent changing residence is the custodial parent, to any other person granted visitation rights or parenting time under this title or a court order. Such notification shall be given at least 30 days prior to the anticipated change of residence and shall include the full address of the new residence.

(g) Except as provided in Code Section 19-6-2, and in addition to the attorney's fee provisions contained in Code Section 19-6-15, the judge may order reasonable attorney's fees and expenses of litigation, experts, and the child's guardian ad litem and other costs of the child custody action and pretrial proceedings to be paid by the parties in proportions and at times determined by the judge. Attorney's fees may be awarded at both the temporary hearing and the final hearing. A

final judgment shall include the amount granted, whether the grant is in full or on account, which may be enforced by attachment for contempt of court or by writ of fieri facias, whether the parties subsequently reconcile or not. An attorney may bring an action in his or her own name to enforce a grant of attorney's fees made pursuant to this subsection.

(h) In addition to filing requirements contained in Code Section 19-6-15, upon the conclusion of any proceeding under this article, the domestic relations final disposition form as set forth in Code Section 9-11-133 shall be filed.

(i) Notwithstanding other provisions of this article, whenever a military parent is deployed, the following shall apply:

(1) A court shall not enter a final order modifying parental rights and responsibilities under an existing parenting plan earlier than 90 days after the deployment ends, unless such modification is agreed to by the deployed parent;

(2) Upon a petition to establish or modify an existing parenting plan being filed by a deploying parent or nondeploying parent, the court shall enter a temporary modification order for the parenting plan to ensure contact with the child during the period of deployment when:

(A) A military parent receives formal notice from military leadership that he or she will deploy in the near future, and such parent has primary physical custody, joint physical custody, or sole physical custody of a child, or otherwise has parenting time with a child under an existing parenting plan; and

(B) The deployment will have a material effect upon a deploying parent's ability to exercise parental rights and responsibilities toward his or her child either in the existing relationship with the other parent or under an existing parenting plan;

(3) Petitions for temporary modification of an existing parenting plan because of a deployment shall be heard by the court as expeditiously as possible and shall be a priority on the court's calendar;

(4) (A) All temporary modification orders for parenting plans shall include a reasonable and specific transition schedule to facilitate a return to the predeployment parenting plan over the shortest reasonable time period after the deployment ends, based upon the child's best interest.

(B) Unless the court determines that it would not be in the child's best interest, a temporary modification order for a parenting plan shall set a date certain for the anticipated end of the deployment and the start of the transition period back to the predeployment parenting plan. If a deployment is extended, the temporary modification order for a parenting plan shall remain in effect, and the transition schedule shall take effect at the end of the extension of the deployment. Failure of the nondeploying parent to notify the court in accordance with this paragraph shall not prejudice the deploying parent's right to return to the predeployment parenting plan once the temporary modification order for a parenting plan expires as provided in subparagraph (C) of this paragraph.

(C) A temporary modification order for a parenting plan shall expire upon the completion of

the transition period and the predeployment parenting plan shall establish the rights and responsibilities between parents for the child;

(5) Upon a petition to modify an existing parenting plan being filed by a deploying parent and upon a finding that it serves the best interest of the child, the court may delegate for the duration of the deployment any portion of such deploying parent's parenting time with the child to anyone in his or her extended family, including but not limited to an immediate family member, a person with whom the deploying parent cohabits, or another person having a close and substantial relationship to the child. Such delegated parenting time shall not create any separate rights to such person once the period of deployment has ended;

(6) If the court finds it to be in the child's best interest, a temporary modification order for a parenting plan issued under this subsection may require any of the following:

(A) The nondeploying parent make the child reasonably available to the deploying parent to exercise his or her parenting time immediately before and after the deploying parent departs for deployment and whenever the deploying parent returns to or from leave or furlough from his or her deployment;

(B) The nondeploying parent facilitate opportunities for the deployed parent to have regular and continuing contact with his or her child by telephone, e-mail exchanges, virtual video parenting time through the Internet, or any other similar means;

(C) The nondeploying parent not interfere with the delivery of correspondence or packages between the deployed parent and child of such parent; and

(D) The deploying parent provide timely information regarding his or her leave and departure schedule to the nondeploying parent;

(7) Because actual leave from a deployment and departure dates for a deployment are subject to change with little notice due to military necessity, such changes shall not be used by the nondeploying parent to prevent contact between the deployed parent and his or her child;

(8) A court order temporarily modifying an existing parenting plan or other order governing parent-child rights and responsibilities shall specify when a deployment is the basis for such order and it shall be entered by the court only as a temporary modification order or interlocutory order;

(9) A relocation by a nondeploying parent during a period of a deployed parent's absence and occurring during the period of a temporary modification order for a parenting plan shall not act to terminate the exclusive and continuing jurisdiction of the court for purposes of later determining custody or parenting time under this chapter;

(10) A court order temporarily modifying an existing parenting plan or other order shall require the nondeploying parent to provide the court and the deploying parent with not less than 30 days' advance written notice of any intended change of residence address, telephone numbers, or e-mail address;

(11) Upon a deployed parent's final return from deployment, either parent may file a petition to modify the temporary modification order for a parenting plan on the grounds that compliance with such order will result in immediate danger or substantial harm to the child, and may further request that the court issue an ex parte order. The deployed parent may file such a petition prior to his or her return. Such petition shall be accompanied by an affidavit in support of the requested order. Upon a finding of immediate danger or substantial harm to the child based on the facts set forth in the affidavit, the court may issue an ex parte order modifying the temporary parenting plan or other parent-child contact in order to prevent immediate danger or substantial harm to the child. If the court issues an ex parte order, the court shall set the matter for hearing within ten days from the issuance of the ex parte order;

(12) Nothing in this subsection shall preclude either party from filing a petition for permanent modification of an existing parenting plan under subsection (b) of this Code section; provided, however, that the court shall not conduct a final hearing on such petition until at least 90 days after the final return of the deploying parent. There shall exist a presumption favoring the predeployment parenting plan or custody order as one that still serves the best interest of the child, and the party seeking to permanently modify such plan or order shall have the burden to prove that it no longer serves the best interest of the child;

(13) When the deployment of a military parent has a material effect upon his or her ability to appear in person at a scheduled hearing, then upon request by the deploying parent and provided reasonable advance notice is given to other interested parties, the court may allow a deployed parent to present testimony and other evidence by electronic means for any matter considered by the court under this subsection. For purposes of this paragraph, the term "electronic means" shall include, but not be limited to, communications by telephone, video teleconference, Internet connection, or electronically stored affidavits or documents sent from the deployment location or elsewhere;

(14) (A) When deployment of a military parent appears imminent and there is no existing parenting plan or other order setting forth the parent's rights and responsibilities, then upon a petition filed by either parent the court shall:

(i) Expedite a hearing to establish a temporary parenting plan;

(ii) Require that the deploying parent shall have continued access to the child, provided that such contact is in the child's best interest;

(iii) Ensure the disclosure of financial information pertaining to both parties;

(iv) Determine the child support responsibilities under Code Section 19-6-15 of both parents during the deployment; and

(v) Determine the child's best interest and consider delegating to any third parties with close contacts to the child any reasonable parenting time during the deployment. In deciding such request the court shall consider the reasonable requests of the deployed parent.

(B) Any pleading filed to establish a parenting plan or child support order under this paragraph shall be identified at the time of filing by stating in the text of the pleading the specific

facts related to the deployment and by referencing this paragraph and subsection of this Code section;

(15) When an impending deployment precludes court expedited adjudication before deployment, the court may agree to allow the parties to arbitrate any issues as allowed under Code Section 19-9-1.1, or order the parties to mediation under any court established alternative dispute resolution program. For purposes of arbitration or mediation, each party shall be under a duty to provide to the other party information relevant to any parenting plan or support issues pertaining to the children or the parties;

(16) Each military parent shall be under a continuing duty to provide written notice to the nondeploying parent within 14 days of the military parent's receipt of oral or written orders requiring deployment or any other absences due to military service that will impact the military parent's ability to exercise his or her parenting time with a child. If deployment orders do not allow for 14 days' advance notice, then the military parent shall provide written notice to the other parent immediately upon receiving such notice; and

(17) A military parent shall ensure that any military family care plan that he or she has filed with his or her commander is consistent with any existing court orders for his or her child. In all instances any court order will be the first course of action for the care of a child during the absence of a military parent, and the military family care plan will be the alternative plan if the nondeploying parent either refuses to provide care for the child or acknowledges an inability to provide reasonable care for the child. A military parent shall not be considered in contempt of any court order or parenting plan when he or she in good faith implements his or her military family care plan based upon the refusal or claimed inability of a nondeploying parent to provide reasonable care for a child during a deployment.

§ 19-9-4. Investigation of abuse, neglect, or other acts which adversely affect health of child in custody disputes; cost

(a) On motion of either party in any action or proceeding involving determination of the award of child custody between parents of the child, when such motion contains a specific recitation of actual abuse, neglect, or other overt acts which have adversely affected the health and welfare of the child, the judge may direct the appropriate family and children services agency or any other appropriate entity to investigate the home life and home environment of each of the parents. In any action or proceeding involving determination of the award of child custody between parents of the child when during such proceedings a specific recitation of actual abuse, neglect, or other overt acts which have adversely affected the health and welfare of the child has been made the judge shall also have authority on his or her own motion to order such an investigation if in the judge's opinion the investigation would be useful in determining placement or custody of the child. The judge may also direct either party to pay to the agency the reasonable cost, or any portion thereof, of the investigation. The report of the investigation will be made to the judge directing the investigation. Any report made at the direction of the judge shall be made available to either or both parties for a reasonable period of time prior to the proceedings at which any temporary or permanent custody is to be determined. Both parties shall have the right to confront and cross-examine the person or persons who conducted the investigation or compiled the report if adequate and legal notice is given.

(b) This Code section shall apply only with respect to actions or proceedings in which the issue of child custody is contested; and this Code section is not intended to alter or repeal Code Sections 49-5-40 through 49-5-44.

§ 19-9-5. Custody agreements; ratification; supplementation

(a) In all proceedings under this article between parents, it shall be expressly permissible for the parents of a child to present to the judge an agreement respecting any and all issues concerning custody of the child. As used in this Code section, the term "custody" shall include, without limitation, joint custody as such term is defined in Code Section 19-9-6. As used in this Code section, the term "custody" shall not include payment of child support.

(b) The judge shall ratify the agreement and make such agreement a part of the judge's final judgment in the proceedings unless the judge makes specific written factual findings as a part of the final judgment that under the circumstances of the parents and the child in such agreement that the agreement would not be in the best interests of the child. The judge shall not refuse to ratify such agreement and to make such agreement a part of the final judgment based solely upon the parents' choice to use joint custody as a part of such agreement.

(c) In his or her judgment, the judge may supplement the agreement on issues not covered by such agreement.

§ 19-9-6. Definitions

As used in this article, the term:

(1) "Armed forces" means the national guard and the reserve components of the armed forces, the United States army, navy, marine corps, coast guard, and air force.

(2) "Deploy" or "deployment" means military service in compliance with the military orders received by a member of the armed forces to report for combat operations, contingency operations, peacekeeping operations, a remote tour of duty, temporary duty, or other such military service for which a parent is required to report unaccompanied by family members. Deployment shall include the period during which a military parent remains subject to deployment orders and remains deployed on account of sickness, wounds, leave, or other lawful cause. Such term shall include mobilization.

(3) "Deploying parent" or "deployed parent" means a military parent who has been formally notified by military leadership that he or she will deploy or mobilize or who is currently deployed or mobilized.

(4) "Joint custody" means joint legal custody, joint physical custody, or both joint legal custody and joint physical custody. In making an order for joint custody, the judge may order joint legal custody without ordering joint physical custody.

(5) "Joint legal custody" means both parents have equal rights and responsibilities for major decisions concerning the child, including the child's education, health care, extracurricular activities, and religious training; provided, however, that the judge may designate one parent to

have sole power to make certain decisions while both parents retain equal rights and responsibilities for other decisions.

(6) "Joint physical custody" means that physical custody is shared by the parents in such a way as to assure the child of substantially equal time and contact with both parents.

(7) "Military family care plan" means a plan that is periodically reviewed by a military parent's commander that provides for care of a military parent's child whenever his or her military duties prevent such parent from providing care to his or her child and ensures that a military parent has made adequate and reasonable arrangements to provide for the needs and supervision of his or her child whenever a nondeploying parent is unable or unavailable to provide care in the military parent's absence.

(8) "Military parent" means a member of the armed forces who is a legal parent, adoptive parent, or guardian of a child under the age of 18, whose parental rights are established either by operation of law or the process of legitimation, and who has not had his or her parental rights terminated by a court of competent jurisdiction.

(9) "Mobilization" or "mobilize" means the call-up of the national guard and the reserve components of the armed forces to extended active duty service. Such term shall not include National Guard or Reserves component annual training, inactive duty days, drill weekends, or state active duty performed within the boundaries this state.

(10) "Nondeploying parent" means:

(A) A parent who is not a member of the armed forces; or

(B) A military parent who is currently not also a deploying parent.

(11) "Sole custody" means a person, including, but not limited to, a parent, has been awarded permanent custody of a child by a court order. Unless otherwise provided by court order, the person awarded sole custody of a child shall have the rights and responsibilities for major decisions concerning the child, including the child's education, health care, extracurricular activities, and religious training, and the noncustodial parent shall have the right to visitation or parenting time. A person who has not been awarded custody of a child by court order shall not be considered as the sole legal custodian while exercising visitation rights or parenting time.

(12) "State active duty" means the call-up by a governor for the performance of any military duty while serving within the boundaries of that state.

(13) "Temporary duty" means the assignment of a military parent to a geographic location outside of this state for a limited period of time to accomplish training or to assist in the performance of a military mission.

§ 19-9-7. Visitation by parent who has committed acts of family violence; conditional orders; confidentiality; joint counseling; conditions for supervised visitation

(a) A judge may award visitation or parenting time to a parent who committed one or more acts

involving family violence only if the judge finds that adequate provision for the safety of the child and the parent who is a victim of family violence can be made. In a visitation or parenting time order, a judge may:

- (1) Order an exchange of a child to occur in a protected setting;
 - (2) Order visitation or parenting time supervised by another person or agency;
 - (3) Order the perpetrator of family violence to attend and complete, to the satisfaction of the judge, a certified family violence intervention program for perpetrators as defined in Article 1A of Chapter 13 of this title as a condition of the visitation or parenting time;
 - (4) Order the perpetrator of family violence to abstain from possession or consumption of alcohol, marijuana, or any Schedule I controlled substance listed in Code Section 16-13-25 during the visitation or parenting time and for 24 hours preceding the visitation or parenting time;
 - (5) Order the perpetrator of family violence to pay a fee to defray the costs of supervised visitation or parenting time;
 - (6) Prohibit overnight visitation or parenting time;
 - (7) Require a bond from the perpetrator of family violence for the return and safety of the child; and
 - (8) Impose any other condition that is deemed necessary to provide for the safety of the child, the victim of family violence, or another family or household member.
- (b) Whether or not visitation or parenting time is allowed, the judge may order the address of the child and the victim of family violence to be kept confidential.
- (c) The judge shall not order an adult who is a victim of family violence to attend joint counseling with the perpetrator of family violence as a condition of receiving custody of a child or as a condition of visitation or parenting time.
- (d) If a judge allows a family or household member to supervise visitation or parenting time, the judge shall establish conditions to be followed during visitation or parenting time.