# EXPEDITED VISITATION ENFORCEMENT PROGRAM

2000 GENERAL SESSION

STATE OF UTAH

**Sponsor: Millie M. Peterson**

AN ACT RELATING TO HUSBAND AND WIFE; EXTENDING THE PILOT PROGRAM FOR EXPEDITED VISITATION ENFORCEMENT TO 2003; LIMITING THE DIVISION OF COSTS FOR MEDIATION TO THE INITIAL MEDIATION; AND PROVIDING FOR REPORTS TO THE JUDICIARY INTERIM COMMITTEE UPON REQUEST.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**30-3-38**, as last amended by Chapters 235 and 329, Laws of Utah 1997

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **30-3-38** is amended to read:

**30-3-38. Pilot Program for Expedited Visitation Enforcement.**

(1) There is established an Expedited Visitation Enforcement Pilot Program in the third judicial district to be administered by the Administrative Office of the Courts from July 1, 1996, to July 1, [2000] 2003.

(2) As used in this section:

(a) "Mediator" means a person who:

(i) is qualified to mediate visitation disputes under criteria established by the Administrative Office of the Courts; and

(ii) agrees to follow billing guidelines established by the Administrative Office of the Courts and this section.

(b) "Services to facilitate visitation" or "services" means services designed to assist families in resolving visitation problems through:

(i) counseling;

(ii) supervised visitation;

(iii) neutral drop-off and pick-up;

(iv) educational classes; and

(v)  other related activities.

(3) (a)  Under this pilot program, if a parent files a motion in the third district court alleging that court-ordered visitation rights are being violated, the clerk of the court, after assigning the case to a judge, shall refer the case to the administrator of this pilot program for assignment to a mediator.

(b)  Upon receipt of a case, the mediator shall:

(i)  meet with the parents to address visitation issues within 15 days of the motion being filed;

(ii)  assess the situation;

(iii)  facilitate an agreement on visitation between the parents; and

(iv)  determine whether a referral to a service provider under Subsection (3)(c) is warranted.

(c)  While a case is in mediation, a mediator may refer the parents to a service provider designated by the Department of Human Services for services to facilitate visitation if:

(i)  the services may be of significant benefit to the parents; or

(ii) (A)  a mediated agreement between the parents is unlikely; and

(B)  the services may facilitate an agreement.

(d)  At anytime during mediation, a mediator shall terminate mediation and transfer the case to the administrator of the pilot program for referral to the judge or court commissioner to whom the case was assigned under Subsection (2) if:

(i)  a written agreement between the parents is reached; or

(ii)  the parents are unable to reach an agreement through mediation; and

(A)  the parents have received services to facilitate visitation;

(B)  both parents object to receiving services to facilitate visitation; or

(C)  the parents are unlikely to benefit from receiving services to facilitate visitation.

(e)  Upon receiving a case from the administrator of the pilot program, a judge or court commissioner may:

(i)  review the agreement of the parents and, if acceptable, sign it as an order;

(ii)  order the parents to receive services to facilitate visitation;

(iii)  proceed with the case; or

(iv)  take other appropriate action.

(4) (a)  If a parent makes a particularized allegation of physical or sexual abuse of a child who is the subject of a visitation order against the other parent or a member of the other parent's household to a mediator or service provider, the mediator or service provider shall immediately report that information to:

(i)  the judge assigned to the case who may immediately issue orders and take other appropriate action to resolve the allegation and protect the child; and

(ii)  the Division of Family Services within the Department of Human Services in the manner required by Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements.

(b)  If an allegation under Subsection (4)(a) is made against a parent with visitation rights or a member of that parent's household, visitation by that parent shall, pursuant to an order of the court, be supervised until:

(i)  the allegation has been resolved; or

(ii)  a court orders otherwise.

(c)  Notwithstanding an allegation under Subsection (4)(a), a mediator may continue to mediate visitation problems and a service provider may continue to provide services to facilitate visitation unless otherwise ordered by a court.

(5) (a)  The Department of Human Services may contract with one or more entities in accordance with Title 63, Chapter 56, Utah Procurement Code, to provide:

(i)  services to facilitate visitation;

(ii)  case management services; and

(iii)  administrative services.

(b)  An entity who contracts with the Department of Human Services under Subsection (5)(a) shall:

(i)  be qualified to provide one or more of the services listed in Subsection (5)(a); and

(ii)  agree to follow billing guidelines established by the Department of Human Services and this section.

(6) (a)  Except as provided in Subsection (6)(b), the cost of mediation [and the cost of services to facilitate visitation] shall be:

(i)  reduced to a sum certain;

(ii)  divided equally between the parents; and

(iii)  charged against each parent taking into account the ability of that parent to pay under billing guidelines adopted in accordance with this section.

(b) (i)  A judge may order a parent to pay an amount in excess of that provided for in Subsection (6)(a) if the parent:

(A)  failed to participate in good faith in mediation or services to facilitate visitation; or

(B)  made an unfounded assertion or claim of physical or sexual abuse of a child.

(c) (i)  The cost of mediation and services to facilitate visitation may be charged to parents at periodic intervals.

(ii)  Mediation and services to facilitate visitation may only be terminated on the ground of nonpayment if both parents are delinquent.

(7)  If a parent fails to cooperate in good faith in mediation or services to facilitate visitation, a court may order, in subsequent proceedings, a temporary change in custody or visitation.

(8) (a)  The Judicial Council may make rules to implement and administer the provisions of this pilot program related to mediation.

(b)  The Department of Human Services may make rules to implement and administer the provisions of this pilot program related to services to facilitate visitation.

(9) (a)  The Administrative Office of the Courts shall adopt outcome measures to evaluate the effectiveness of the mediation component of this pilot program.  Progress reports shall be provided to the Judiciary Interim Committee [by August 1998 and] as requested [thereafter] by the committee. At least once during this pilot program, the Administrative Office of the Courts shall present to the committee the results of a survey that measures the effectiveness of the program in terms of increased compliance with visitation orders and the responses of interested persons.

(b)  The Department of Human Services shall adopt outcome measures to evaluate the effectiveness of the services component of this pilot program.  Progress reports shall be provided to the Judiciary Interim Committee [by August 1998 and] as requested [thereafter] by the committee.

(c)  The Administrative Office of the Courts and the Department of Human Services may

adopt joint outcome measures and file joint reports to satisfy the requirements of Subsections 8(a) and (b).

(10) (a)  The Department of Human Services shall apply for federal funds [~~designated for visitation, if such funds are~~] <u>as</u> available.

(b)  This pilot program shall be funded through funds received under Subsection (a)[~~, the Children's Legal Defense Account as established in Section 63-63a-8, or other available funding. Without funding, the pilot program may not proceed~~].