

1 **PARENT-TIME ASSISTANCE OFFICE**

2 2003 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Chad E. Bennion**

5 **This act modifies the Human Services Code to create a Parent-time Assistance Office.**

6 **The act sets out the duties of the office and allows for coordination with law enforcement,**
7 **the attorney general, and the Office of Recovery Services. It also provides for agency**
8 **action under the Administrative Procedures Act and allows the office to help a person fill**
9 **out court-related documents once the office can no longer effectively help the person.**

10 **This act raises certain court fees and creates a restricted account to fund the office. The**
11 **act provides an effective date.**

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

13 AMENDS:

14 **78-7-35**, as last amended by Chapters 250 and 329, Laws of Utah 2002

15 ENACTS:

16 **62A-16-101**, Utah Code Annotated 1953

17 **62A-16-102**, Utah Code Annotated 1953

18 **62A-16-103**, Utah Code Annotated 1953

19 **62A-16-104**, Utah Code Annotated 1953

20 **62A-16-105**, Utah Code Annotated 1953

21 **62A-16-106**, Utah Code Annotated 1953

22 **62A-16-107**, Utah Code Annotated 1953

23 **62A-16-108**, Utah Code Annotated 1953

24 **62A-16-109**, Utah Code Annotated 1953

25 **62A-16-110**, Utah Code Annotated 1953

26 **62A-16-111**, Utah Code Annotated 1953

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



28 Section 1. Section **62A-16-101** is enacted to read:

29 **CHAPTER 16. PARENT-TIME ASSISTANCE**

30 **62A-16-101. Parent-time Assistance Office.**

31 (1) There is created within the department the Parent-time Assistance Office which has
32 the powers and duties provided by law.

33 (2) The office is under the administrative and general supervision of the executive
34 director of the department.

35 Section 2. Section **62A-16-102** is enacted to read:

36 **62A-16-102. Definitions.**

37 As used in this chapter:

38 (1) "Director" means the director of the Parent-time Assistance Office.

39 (2) "Office" means the Parent-time Assistance Office.

40 Section 3. Section **62A-16-103** is enacted to read:

41 **62A-16-103. Duties of office.**

42 The office has the following duties:

43 (1) to provide parent-time services if:

44 (a) the office has received a complaint regarding custodial interference or the denial of
45 parent-time; or

46 (b) the office has received a request for assistance in enforcing a parent-time schedule;

47 (2) to carry out the obligations of the department with regard to supporting families;

48 (3) to promote mediation as an alternative to court action;

49 (4) to promote shared parenting by inclusion of both parents in the lives of their
50 children;

51 (5) to provide information concerning laws pertaining to parent-time; and

52 (6) to cooperate and coordinate with the Office of Recovery Services when necessary
53 to ensure the fair and reasonable enforcement of parent-time laws.

54 Section 4. Section **62A-16-104** is enacted to read:

55 **62A-16-104. Director -- Assistance of law enforcement -- Receipt of grants --**
56 **Rulemaking and enforcement.**

57 (1) The director of the office shall be appointed by the executive director.

58 (2) The office may request the assistance of the attorney general or any local law

59 enforcement agency to enforce a parent-time order.

60 (3) The office, with department approval, is authorized to receive any grants or
61 stipends from the federal government or other public or private source to aid the effective
62 operation of its programs.

63 (4) The office may adopt, amend, and enforce rules in accordance with Title 63,
64 Chapter 46a, Utah Administrative Rulemaking Act, necessary to carry out the provisions of this
65 chapter.

66 Section 5. Section **62A-16-105** is enacted to read:

67 **62A-16-105. Access to motor vehicle and law enforcement data.**

68 The office shall have access to any system used by this state to locate an individual,
69 including motor vehicle, drivers license, or law enforcement records.

70 Section 6. Section **62A-16-106** is enacted to read:

71 **62A-16-106. Request for assistance -- Procedure.**

72 Any person who has been awarded parent-time rights by a court may request assistance
73 from the office in the enforcement of those rights. A person requesting assistance shall:

74 (1) provide copies of all documents relevant to an award of parent-time rights,
75 including divorce decree, custody agreement, any written communication with the other parent
76 concerning parent-time schedules, mediation documents, and any other documents necessary to
77 adequately represent their situation;

78 (2) provide the name, current address, and phone number of the other party, if known;

79 and

80 (3) any other information considered necessary by the office.

81 Section 7. Section **62A-16-107** is enacted to read:

82 **62A-16-107. Office procedures.**

83 (1) Upon the receipt of a request for assistance, the office shall immediately attempt to
84 contact the other party by phone and attempt to resolve any difficulties to insure that
85 parent-time is properly carried out.

86 (2) If the party cannot be reached by phone, a letter shall be sent requesting an
87 interview or a written and notarized statement explaining the circumstances surrounding the
88 denial of parent-time referred to in the letter, and requiring a response by a date not later than
89 ten days from the date of the letter.

90 (3) If no response is received, or if the response is uncooperative, the office may
91 initiate an action in accordance with Title 63, Chapter 46b, Administrative Procedures Act.

92 Section 8. Section **62A-16-108** is enacted to read:

93 **62A-16-108. Hearings.**

94 (1) The office shall by rule:

95 (a) designate hearings as formal or informal; and

96 (b) provide for notice requirements and hearing procedures.

97 (2) The office may impose a fine of up to \$250 against any party who refuses to
98 respond, does not appear, or is found to have been noncompliant with court-ordered
99 parent-time. All fines collected shall be deposited in the General Fund.

100 (3) The office may also order make-up parent-time at up to twice the amount denied.

101 Section 9. Section **62A-16-109** is enacted to read:

102 **62A-16-109. Office assistance in preparation of court documents.**

103 (1) The office may assist a party in the preparation of documents to be presented to the
104 court involving custody and parent-time matters, if the office determines that a pattern or
105 practice of denial of parent-time is continuing such that the office can no longer effectively
106 assist the party being denied parent-time. The office, however, may not provide legal advice.

107 (2) The office shall supply any party or the court, upon request, a detailed, written
108 accounting of efforts by the office to assist in the enforcement of parent-time, the results of
109 those efforts, and any recommended changes to the current parent-time order.

110 Section 10. Section **62A-16-110** is enacted to read:

111 **62A-16-110. Department to assess need -- Report to Judiciary Committee.**

112 (1) The department may provide a limited amount of services through August 2004
113 while assessing the demand for broader, more comprehensive services.

114 (2) The department shall assess the need for services, including the demand for specific
115 services.

116 (3) The department shall report its assessments, findings, and conclusions to the
117 Judiciary Interim Committee by September 30, 2004.

118 Section 11. Section **62A-16-111** is enacted to read:

119 **62A-16-111. Parent-time Assistance Account.**

120 (1) There is created a restricted account within the General Fund known as the

121 Parent-time Assistance Account.

122 (2) The purpose of the Parent-time Assistance Account is to provide for programs that
123 assist in implementing, fostering, and enforcing parent-time.

124 (3) The Legislature shall appropriate money from the account for the administrative
125 and related costs of the Parent-time Assistance Office created in this chapter.

126 (4) Fifteen dollars of the fee in Subsection 78-7-35(1)(b)(iv) and \$5 of the fee in
127 Subsection 78-7-35(1)(d)(iv) shall be allocated to the Parent-time Assistance Account.

128 (5) The Division of Finance shall allocate the amounts described in Subsection (4) to
129 the Parent-time Assistance Account.

130 Section 12. Section **78-7-35** is amended to read:

131 **78-7-35. Civil fees of the courts of record -- Courts complex design.**

132 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
133 court of record not governed by another subsection is \$140.

134 (b) The fee for filing a complaint or petition is:

135 (i) \$45 if the claim for damages or amount in interpleader exclusive of court costs,
136 interest, and attorney fees is \$2,000 or less;

137 (ii) \$90 if the claim for damages or amount in interpleader exclusive of court costs,
138 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

139 (iii) \$140 if the claim for damages or amount in interpleader is \$10,000 or more; and

140 (iv) [~~\$80~~] \$95 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
141 Chapter 4, Separate Maintenance.

142 (c) The fee for filing a small claims affidavit is:

143 (i) \$45 if the claim for damages or amount in interpleader exclusive of court costs,
144 interest, and attorney fees is \$2,000 or less; and

145 (ii) \$70 if the claim for damages or amount in interpleader exclusive of court costs,
146 interest, and attorney fees is greater than \$2,000.

147 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
148 complaint, or other claim for relief against an existing or joined party other than the original
149 complaint or petition is:

150 (i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is
151 \$2,000 or less;

152 (ii) \$70 if the claim for relief exclusive of court costs, interest, and attorney fees is
153 greater than \$2,000 and less than \$10,000;

154 (iii) \$90 if the original petition is filed under Subsection (1)(a), the claim for relief is
155 \$10,000 or more, or the party seeks relief other than monetary damages; and

156 (iv) [~~\$70~~] \$75 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title
157 30, Chapter 4, Separate Maintenance.

158 (e) The fee for filing a small claims counter affidavit is:

159 (i) \$35 if the claim for relief exclusive of court costs, interest, and attorney fees is
160 \$2,000 or less; and

161 (ii) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
162 greater than \$2,000.

163 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
164 action already before the court is determined under Subsection (1)(b) based on the amount
165 deposited.

166 (g) The fee for filing a petition is:

167 (i) \$70 for trial de novo of an adjudication of the justice court or of the small claims
168 department; and

169 (ii) \$40 for an appeal of a municipal administrative determination in accordance with
170 Section 10-3-703.7.

171 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
172 petition for writ of certiorari is \$190.

173 (i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a
174 petition for expungement is \$50.

175 (ii) There is no fee for a petition filed under Subsection 77-18-10(2).

176 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
177 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
178 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
179 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
180 Act.

181 (ii) Two dollars of the fees established by Subsections (1)(a) through (i) shall be
182 allocated by the state treasurer to be deposited in the restricted account, Children's Legal

183 Defense Account, as provided in Section 63-63a-8.

184 (iii) One dollar of the fees established under Subsections (1)(a) through (e), (1)(g), and
185 (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in
186 Section 78-31b-9.

187 (iv) Fifteen dollars of the fee established under Subsection (1)(b)(iv) and \$5 of the fee
188 established under Subsection (1)(d)(iv) shall be allocated to and deposited in the Parent-time
189 Assistance Account as provided in Section 62A-16-111.

190 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
191 United States is \$25.

192 (l) The fee for filing probate or child custody documents from another state is \$25.

193 (m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the
194 Utah State Tax Commission is \$30.

195 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
196 or a judgment, order, or decree of an administrative agency, commission, board, council, or
197 hearing officer of this state or of its political subdivisions other than the Utah State Tax
198 Commission, is \$40.

199 (n) The fee for filing a judgment by confession without action under Section 78-22-3 is
200 \$25.

201 (o) The fee for filing an award of arbitration for confirmation, modification, or
202 vacation under Title 78, Chapter 31a, [Utah] Arbitration Act, that is not part of an action before
203 the court is \$25.

204 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is \$40.

205 (q) The fee for filing any accounting required by law is:

206 (i) \$10 for an estate valued at \$50,000 or less;

207 (ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;

208 (iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;

209 (iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and

210 (v) \$150 for an estate valued at more than \$168,000.

211 (r) The fee for filing a demand for a civil jury is \$75.

212 (s) The fee for filing a notice of deposition in this state concerning an action pending in
213 another state under Utah Rule of Civil Procedure 26 is \$25.

214 (t) The fee for filing documents that require judicial approval but are not part of an
215 action before the court is \$25.

216 (u) The fee for a petition to open a sealed record is \$25.

217 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$35 in
218 addition to any fee for a complaint or petition.

219 (w) The fee for a petition for authorization for a minor to marry required by Section
220 30-1-9 is \$5.

221 (x) The fee for a certificate issued under Section 26-2-25 is \$2.

222 (y) The fee for a certified copy of a document is \$4 per document plus 50 cents per
223 page.

224 (z) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
225 per page.

226 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of
227 documents and forms and for the search and retrieval of records under Title 63, Chapter 2,
228 Government Records Access and Management Act. Fees under this Subsection (1)(aa) shall be
229 credited to the court as a reimbursement of expenditures.

230 (bb) There is no fee for services or the filing of documents not listed in this section or
231 otherwise provided by law.

232 (cc) Except as provided in this section, all fees collected under this section are paid to
233 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
234 accepts the pleading for filing or performs the requested service.

235 (dd) The filing fees under this section may not be charged to the state, its agencies, or
236 political subdivisions filing or defending any action. In judgments awarded in favor of the
237 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court
238 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums
239 collected under this Subsection (1)(dd) shall be applied to the fees after credit to the judgment,
240 order, fine, tax, lien, or other penalty and costs permitted by law.

241 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts
242 shall transfer all revenues representing the difference between the fees in effect after May 2,
243 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of
244 Facilities Construction and Management Capital Projects Fund.

245 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
246 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the
247 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to
248 initiate the development of a courts complex in Salt Lake City.

249 (B) If the Legislature approves funding for construction of a courts complex in Salt
250 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and
251 Management shall use the revenue deposited in the Capital Projects Fund under Subsection
252 (2)(a)(ii) to construct a courts complex in Salt Lake City.

253 (C) After the courts complex is completed and all bills connected with its construction
254 have been paid, the Division of Facilities Construction and Management shall use any monies
255 remaining in the Capital Projects Fund under Subsection (2)(a)(ii) to fund the Vernal District
256 Court building.

257 (iii) The Division of Facilities Construction and Management may enter into
258 agreements and make expenditures related to this project before the receipt of revenues
259 provided for under this Subsection (2)(a)(iii).

260 (iv) The Division of Facilities Construction and Management shall:

261 (A) make those expenditures from unexpended and unencumbered building funds
262 already appropriated to the Capital Projects Fund; and

263 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
264 under this Subsection (2).

265 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues
266 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
267 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
268 account.

269 (c) The Division of Finance shall deposit all revenues received from the court
270 administrator into the restricted account created by this section.

271 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall
272 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor
273 Vehicles, in a court of record to the Division of Facilities Construction and Management
274 Capital Projects Fund. The division of money pursuant to Section 78-3-14.5 shall be calculated
275 on the balance of the fine or bail forfeiture paid.

276 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer
277 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in
278 a court of record or an administrative traffic proceeding in accordance with Section 10-3-703.5
279 to the Division of Finance for deposit in the restricted account created by this section. The
280 division of money pursuant to Section 78-3-14.5 shall be calculated on the balance of the fine
281 or bail forfeiture paid.

282 (3) (a) There is created within the General Fund a restricted account known as the State
283 Courts Complex Account.

284 (b) The Legislature may appropriate monies from the restricted account to the
285 administrator of the courts for the following purposes only:

286 (i) to repay costs associated with the construction of the court complex that were
287 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

288 (ii) to cover operations and maintenance costs on the court complex.

289 Section 13. **Effective date.**

290 This act takes effect on July 1, 2003.

Legislative Review Note
as of 1-27-03 10:52 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

AMENDED NOTE

State Impact

Administrative and related costs of the new Parent-time Assistance Office is to funded by appropriations from a new General Fund Restricted Account known as the "Parent-time Assistance Account." Increased court fees specified in the bill are expected to generate \$191,500, which will be deposited in this new account. During its first year of operation, services may be limited while the Office assesses the scope of services needed. There would likely be additional staff requirements in the State Attorney General's Office, the Courts, as well as significant additional funding needed for the Parent-time Assistance Office as service demands are assessed and the program goes statewide. Additional resources, besides the increased court fees, would likely be required. Local AG Offices and law enforcement agencies could also see significant increases in demands on their services.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
GF Restricted	\$191,500	\$191,500	\$191,500	\$191,500
TOTAL	<u>\$191,500</u>	<u>\$191,500</u>	<u>\$191,500</u>	<u>\$191,500</u>

Individual and Business Impact

Some individuals taking advantage of these services could see savings from not having to seek private assistance.

Office of the Legislative Fiscal Analyst