

EXPEDITED PARENT-TIME ENFORCEMENT

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Julie Fisher

Senate Sponsor: Gregory S. Bell

LONG TITLE

Committee Note:

The Judiciary Interim Committee recommended this bill.

General Description:

This bill expands the Expedited Parent-time Enforcement Program to the entire state.

Highlighted Provisions:

This bill:

► converts the Expedited Parent-time Enforcement Program from a pilot program in the Third Judicial District to a statewide program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

⚡→ [None] This bill coordinates with S.B. 111, Revisor's Statute. ←⚡

Utah Code Sections Affected:

AMENDS:

30-3-38, as last amended by Laws of Utah 2004, Chapter 352

63-63a-8, as last amended by Laws of Utah 2007, Chapter 326

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

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

30-3-38. Expedited Parent-time Enforcement Program.

H.B. 22



28 (1) There is established an Expedited Parent-time Enforcement [~~Pilot~~] Program [~~in the~~
 29 ~~third judicial district~~] to be administered by the Administrative Office of the Courts [~~from July~~
 30 ~~1, 2003, to July 1, 2007~~].

31 (2) As used in this section:

32 (a) "Mediator" means a person who:

33 (i) is qualified to mediate parent-time disputes under criteria established by the
 34 Administrative Office of the Courts; and

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

37 (b) "Services to facilitate parent-time" or "services" means services designed to assist
 38 families in resolving parent-time problems through:

39 (i) counseling;

40 (ii) supervised parent-time;

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

42 (iv) educational classes; and

43 (v) other related activities.

44 (3) (a) [~~Under this pilot program, if~~] If a parent files a motion in the [third] district
 45 court alleging that court-ordered parent-time rights are being violated, the clerk of the court,
 46 after assigning the case to a judge, shall refer the case to the administrator of this [pilot]
 47 program for assignment to a mediator, unless a parent is incarcerated or otherwise unavailable.
 48 Unless the court rules otherwise, a parent residing outside of the state is not unavailable. ~~§~~→ **The**
 48a **director of the program for the courts, the court, or the mediator may excuse either party from**
 48b **the requirement to mediate for good cause. ←~~§~~**

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

50 (i) meet with the parents to address parent-time issues within 15 days of the motion
 51 being filed;

52 (ii) assess the situation;

53 (iii) facilitate an agreement on parent-time between the parents; and

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

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

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

- 59 (ii) (A) a mediated agreement between the parents is unlikely; and
- 60 (B) the services may facilitate an agreement.
- 61 (d) At any time during mediation, a mediator shall terminate mediation and transfer the
- 62 case to the administrator of the [pilot] program for referral to the judge or court commissioner
- 63 to whom the case was assigned under Subsection (3)(a) if:
 - 64 (i) a written agreement between the parents is reached; or
 - 65 (ii) the parents are unable to reach an agreement through mediation and:
 - 66 (A) the parents have received services to facilitate parent-time;
 - 67 (B) both parents object to receiving services to facilitate parent-time; or
 - 68 (C) the parents are unlikely to benefit from receiving services to facilitate parent-time.
 - 69 (e) Upon receiving a case from the administrator of the [pilot] program, a judge or
 - 70 court commissioner may:
 - 71 (i) review the agreement of the parents and, if acceptable, sign it as an order;
 - 72 (ii) order the parents to receive services to facilitate parent-time;
 - 73 (iii) proceed with the case; or
 - 74 (iv) take other appropriate action.
 - 75 (4) (a) If a parent makes a particularized allegation of physical or sexual abuse of a
 - 76 child who is the subject of a parent-time order against the other parent or a member of the other
 - 77 parent's household to a mediator or service provider, the mediator or service provider shall
 - 78 immediately report that information to:
 - 79 (i) the judge assigned to the case who may immediately issue orders and take other
 - 80 appropriate action to resolve the allegation and protect the child; and
 - 81 (ii) the Division of Child and Family Services within the Department of Human
 - 82 Services in the manner required by Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect
 - 83 Reporting Requirements.
 - 84 (b) If an allegation under Subsection (4)(a) is made against a parent with parent-time
 - 85 rights or a member of that parent's household, parent-time by that parent shall, pursuant to an
 - 86 order of the court, be supervised until:
 - 87 (i) the allegation has been resolved; or
 - 88 (ii) a court orders otherwise.
 - 89 (c) Notwithstanding an allegation under Subsection (4)(a), a mediator may continue to

90 mediate parent-time problems and a service provider may continue to provide services to
 91 facilitate parent-time unless otherwise ordered by a court.

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

- 94 (i) services to facilitate parent-time;
- 95 (ii) case management services; and
- 96 (iii) administrative services.

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

- 99 (i) be qualified to provide one or more of the services listed in Subsection (5)(a); and
- 100 (ii) agree to follow billing guidelines established by the Department of Human Services
 101 and this section.

102 (6) (a) Except as provided in Subsection (6)(b), the cost of mediation shall be:

- 103 (i) reduced to a sum certain;
- 104 (ii) divided equally between the parents; and
- 105 (iii) charged against each parent taking into account the ability of that parent to pay
 106 under billing guidelines adopted in accordance with this section.

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

- 109 (i) failed to participate in good faith in mediation or services to facilitate parent-time;
- 110 or
- 111 (ii) made an unfounded assertion or claim of physical or sexual abuse of a child.

112 (c) (i) The cost of mediation and services to facilitate parent-time may be charged to
 113 parents at periodic intervals.

114 (ii) Mediation and services to facilitate parent-time may only be terminated on the
 115 ground of nonpayment if both parents are delinquent.

116 ~~§ → [(7) If a parent fails to cooperate in good faith in mediation or services to facilitate~~
 117 ~~parent-time, a court may order, in subsequent proceedings, a temporary change in custody or~~
 118 ~~parent-time.~~

119 ~~——(8)(a)] (7) ←§~~ The Judicial Council may make rules to implement and administer the
 120 provisions of this [pilot] program related to mediation.

121 (b) The Department of Human Services may make rules to implement and administer
122 the provisions of this [~~pilot~~] program related to services to facilitate parent-time.

123 ~~§~~→ [(9)] (8) ←~~§~~ (a) The Administrative Office of the Courts shall adopt outcome measures to
124 evaluate the effectiveness of the mediation component of this [~~pilot~~] program. Progress reports
125 shall be provided to the Judiciary Interim Committee as requested by the committee. [~~At least~~
126 ~~once during this pilot program, the Administrative Office of the Courts shall present to the~~
127 ~~committee the results of a survey that measures the effectiveness of the program in terms of~~
128 ~~increased compliance with parent-time orders and the responses of interested persons.]~~

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

132 (c) The Administrative Office of the Courts and the Department of Human Services
133 may adopt joint outcome measures and file joint reports to satisfy the requirements of
134 Subsections ~~§~~→ [(8)] (7) ←~~§~~ (a) and (b).

135 ~~§~~→ [(10)] (9) ←~~§~~ [(a)] The Department of Human Services shall, by following the
135a procedures and
136 requirements of Title 63, Chapter 38e, Federal Funds Procedures, apply for federal funds as
137 available.

138 [~~(b) This pilot program shall be funded through funds received under Subsection~~
139 ~~(10)(a).]~~

140 Section 2. Section ~~63-63a-8~~ is amended to read:

141 **63-63a-8. Children's Legal Defense Account.**

142 (1) There is created a restricted account within the General Fund known as the
143 Children's Legal Defense Account.

144 (2) The purpose of the Children's Legal Defense Account is to provide for programs
145 that protect and defend the rights, safety, and quality of life of children.

146 (3) The Legislature shall appropriate money from the account for the administrative
147 and related costs of the following programs:

- 148 (a) implementing the Mandatory Educational Course on Children's Needs for
149 Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4,
150 30-3-7, 30-3-10.3, 30-3-11.3, 30-3-15.3, and 30-3-18, and the Mediation [~~Pilot~~] Program -
151 Child Custody or Parent-time as provided in Sections 30-3-15.3 and 30-3-18;

152 (b) implementing the use of guardians ad litem as provided in Sections 30-3-5.2,
 153 78-3a-318, 78-3a-912, 78-11-6, and 78-7-9; the training of guardian ad litem and volunteers as
 154 provided in Section 78-3a-912; and termination of parental rights as provided in Sections
 155 78-3a-118, 78-3a-119, 78-3a-903, and Title 78, Chapter 3a, Part 4, Termination of Parental
 156 Rights Act. This account may not be used to supplant funding for the guardian ad litem
 157 program in the juvenile court as provided in Section 78-3a-912; and

158 (c) implementing and administering the Expedited Parent-time Enforcement [~~Pilot~~]
 159 Program as provided in Section 30-3-38.

160 (4) The following withheld fees shall be allocated only to the Children's Legal Defense
 161 Account and used only for the purposes provided in Subsections (3)(a) through (c):

162 (a) the additional \$10 fee withheld on every marriage license issued in the state of Utah
 163 as provided in Section 17-16-21; and

164 (b) a fee of \$4 shall be withheld from the existing civil filing fee collected on any
 165 complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.

166 (5) The Division of Finance shall allocate the monies described in Subsection (4) from
 167 the General Fund to the Children's Legal Defense Account.

168 (6) Any funds in excess of \$200,000 remaining in the restricted account as of June 30
 169 of any fiscal year shall lapse into the General Fund.

169a **§→ Section 3. Coordinating H.B. 22 with S.B. 111.**

169b **If this bill and S.B. 111, Revisor's Statute, both pass, it is the intent of the Legislature**
 169c **that Section 30-3-38 not be repealed and the amendments in this H.B. 22 take effect. ←§**

Legislative Review Note
 as of 10-11-07 4:42 PM

Office of Legislative Research and General Counsel

H.B. 22 - Expedited Parent -time Enforcement

Fiscal Note

2008 General Session
State of Utah

State Impact

Enactment of this bill will require a \$275,500 in additional General Fund. Federal matching funds will increase by \$100,00 annually. Funding will be used to expand Expedited Parent-time Enforcement statewide.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$275,500	\$275,500	\$0	\$0	\$0
Federal Funds	\$0	\$100,000	\$100,000	\$0	\$100,000	\$100,000
Total	\$0	\$375,500	\$375,500	\$0	\$100,000	\$100,000

Individual, Business and/or Local Impact

Enactment of this bill may create a fiscal impact on individuals.
