

**SHARED PARENTING BY DIVORCING
PARENTS**

2003 GENERAL SESSION
STATE OF UTAH

Sponsor: Mike Thompson

This act modifies provisions pertaining to Husband and Wife by providing a rebuttable presumption of equal access to minor children during the pendency of an action for divorce.

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

AMENDS:

30-3-3, as last amended by Chapter 255, Laws of Utah 2001

ENACTS:

30-3-3.5, Utah Code Annotated 1953

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

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

30-3-3. Award of costs, attorney and witness fees.

(1) In any action filed under Title 30, Chapter 3, Divorce, Chapter 4, Separate Maintenance, or Chapter 6, Cohabitant Abuse, and in any action to establish an order of custody, parent-time, child support, alimony, or division of property in a domestic case, the court may order a party to pay the costs, attorney fees, and witness fees, including expert witness fees, of the other party to enable the other party to prosecute or defend the action. The order may include provision for costs of the action.

(2) In any action to enforce an order of custody, parent-time, child support, alimony, or division of property in a domestic case, the court may award costs and attorney fees upon determining that the party substantially prevailed upon the claim or defense. The court, in its discretion, may award no fees or limited fees against a party if the court finds the party is impecunious or enters in the record the reason for not awarding fees.



28 ~~[(3) In any action listed in Subsection (1), the court may order a party to provide~~
29 ~~money, during the pendency of the action, for the separate support and maintenance of the~~
30 ~~other party and of any children in the custody of the other party.]~~

31 ~~[(4) Orders entered under this section prior to entry of the final order or judgment may~~
32 ~~be amended during the course of the action or in the final order or judgment.]~~

33 Section 2. Section **30-3-3.5** is enacted to read:

34 **30-3-3.5. Temporary orders.**

35 (1) In any action listed in Subsection 30-3-3(1), during the pendency of the action, the
36 court:

37 (a) shall provide to both parties substantially equal access to the minor children if
38 requested by either party, unless the court finds that requiring equal access would be
39 detrimental to the well-being of the minor children; and

40 (b) may order a party to provide money, for the separate support and maintenance of
41 the other party and of any children in the custody of the other party.

42 (2) The burden of proof that equal access under Subsection (1)(a) would be detrimental
43 to the well-being of the minor children shall be on the party objecting to equal access. If equal
44 access is denied, the court shall state on the record and in writing its reasons for denial.

45 (3) Orders entered under this section and Section 30-3-3 prior to entry of the final order
46 or judgment may be amended during the course of the action or in the final order or judgment.

Legislative Review Note
as of 10-9-02 9:01 AM

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

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-12-02 8:44 AM

The Judiciary Interim Committee recommended this bill.

State Impact

This bill requires an ongoing appropriation of \$98,500 General Fund to the Courts.

	<u>FY 04 Approp.</u>	<u>FY 05 Approp.</u>	<u>FY 04 Revenue</u>	<u>FY 05 Revenue</u>
General Fund	\$98,500	\$98,500	\$0	\$0
TOTAL	\$98,500	\$98,500	\$0	\$0

Individual and Business Impact

Provisions of this bill could increase lawyer and court fees for parties involved in the parenting issues related to this bill.

Office of the Legislative Fiscal Analyst