

1 **VIRTUAL VISITATION AMENDMENTS**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Douglas C. Aagard**

5

LONG TITLE

6 **General Description:**

7
8 This bill provides that, if available, liberal virtual access be permitted and encouraged
9 between children and a noncustodial parent.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines virtual parent-time; and
13 ▶ adds virtual parent-time to the parent-time guidelines and schedules.

14 **Monies Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 None

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **30-3-32**, as last amended by Chapter 269, Laws of Utah 2003

21 **30-3-33**, as last amended by Chapter 255, Laws of Utah 2001

22 **30-3-35**, as last amended by Chapter 269, Laws of Utah 2003

23 **30-3-35.5**, as last amended by Chapter 176, Laws of Utah 2003

24

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

25 Section 1. Section **30-3-32** is amended to read:

26 **30-3-32. Parent-time -- Intent -- Policy -- Definitions.**
27



28 (1) It is the intent of the Legislature to promote parent-time at a level consistent with
29 all parties' interests.

30 (2) Absent a showing by a preponderance of evidence of real harm or substantiated
31 potential harm to the child:

32 (a) it is in the best interests of the child of divorcing, divorced, or adjudicated parents
33 to have frequent, meaningful, and continuing access to each parent following separation or
34 divorce;

35 (b) each divorcing, separating, or adjudicated parent is entitled to and responsible for
36 frequent, meaningful, and continuing access with his child consistent with the child's best
37 interests; and

38 (c) it is in the best interests of the child to have both parents actively involved in
39 parenting the child.

40 (3) For purposes of Sections 30-3-32 through 30-3-37:

41 (a) "Child" means the child or children of divorcing, separating, or adjudicated parents.

42 (b) "Christmas school vacation" means the time period beginning on the evening the
43 child gets out of school for the Christmas or winter school break until the evening before the
44 child returns to school, except for Christmas Eve and Christmas Day.

45 (c) "Extended parent-time" means a period of parent-time other than a weekend,
46 holiday as provided in Subsections 30-3-35(2)(f) and (2)(g), religious holidays as provided in
47 Subsections 30-3-33(3) and (15), and "Christmas school vacation."

48 (d) "Virtual parent-time" means parent-time facilitated by tools such as video
49 conferencing, web cams, email, instant messaging, ~~h~~ TELEVISION WITH VIDEOPHONE, ~~h~~ and other
49a wired or wireless technologies

50 over the internet or other media, ~~h~~ [including a television with DSL cable,] ~~h~~ to supplement in
51 person visits and telephone contact between a noncustodial parent and a child. Virtual
52 parent-time is designed to supplement, not replace, ~~h~~ [regular] IN-PERSON ~~h~~ parent-time.

53 Section 2. Section **30-3-33** is amended to read:

54 **30-3-33. Advisory guidelines.**

55 In addition to the parent-time schedules provided in Sections 30-3-35 and 30-3-35.5,
56 advisory guidelines are suggested to govern all parent-time arrangements between parents.

57 These advisory guidelines include:

58 (1) parent-time schedules mutually agreed upon by both parents are preferable to a

59 court-imposed solution;

60 (2) the parent-time schedule shall be utilized to maximize the continuity and stability
61 of the child's life;

62 (3) special consideration shall be given by each parent to make the child available to
63 attend family functions including funerals, weddings, family reunions, religious holidays,
64 important ceremonies, and other significant events in the life of the child or in the life of either
65 parent which may inadvertently conflict with the parent-time schedule;

66 (4) the noncustodial parent shall pick up the child at the times specified and return the
67 child at the times specified, and the child's regular school hours shall not be interrupted;

68 (5) the custodial parent shall have the child ready for parent-time at the time he is to be
69 picked up and shall be present at the custodial home or shall make reasonable alternate
70 arrangements to receive the child at the time he is returned;

71 (6) the court may make alterations in the parent-time schedule to reasonably
72 accommodate the work schedule of both parents and may increase the parent-time allowed to
73 the noncustodial parent but shall not diminish the standardized parent-time provided in
74 Sections 30-3-35 and 30-3-35.5;

75 (7) the court may make alterations in the parent-time schedule to reasonably
76 accommodate the distance between the parties and the expense of exercising parent-time;

77 (8) neither parent-time nor child support is to be withheld due to either parent's failure
78 to comply with a court-ordered parent-time schedule;

79 (9) the custodial parent shall notify the noncustodial parent within 24 hours of
80 receiving notice of all significant school, social, sports, and community functions in which the
81 child is participating or being honored, and the noncustodial parent shall be entitled to attend
82 and participate fully;

83 (10) the noncustodial parent shall have access directly to all school reports including
84 preschool and daycare reports and medical records and shall be notified immediately by the
85 custodial parent in the event of a medical emergency;

86 (11) each parent shall provide the other with his current address and telephone number,
87 email address, and other virtual parent-time access information within 24 hours of any change;

88 (12) each parent shall permit and encourage ~~h~~ **REASONABLE** ~~h~~ telephone contact
88a and virtual
89 parent-time when the equipment can reasonably be made available, during reasonable hours,

90 and uncensored mail privileges with the child;

91 (13) parental care shall be presumed to be better care for the child than surrogate care
92 and the court shall encourage the parties to cooperate in allowing the noncustodial parent, if
93 willing and able, to provide child care;

94 (14) each parent shall provide all surrogate care providers with the name, current
95 address, and telephone number of the other parent and shall provide the noncustodial parent
96 with the name, current address, and telephone number of all surrogate care providers unless the
97 court for good cause orders otherwise; and

98 (15) each parent shall be entitled to an equal division of major religious holidays
99 celebrated by the parents, and the parent who celebrates a religious holiday that the other parent
100 does not celebrate shall have the right to be together with the child on the religious holiday.

101 Section 3. Section **30-3-35** is amended to read:

102 **30-3-35. Minimum schedule for parent-time for children 5 to 18 years of age.**

103 (1) The parent-time schedule in this section applies to children 5 to 18 years of age.

104 (2) If the parties do not agree to a parent-time schedule, the following schedule shall be
105 considered the minimum parent-time to which the noncustodial parent and the child shall be
106 entitled:

107 (a) (i) one weekday evening to be specified by the noncustodial parent or the court
108 from 5:30 p.m. until 8:30 p.m.; or

109 (ii) at the election of the noncustodial parent, one weekday from the time the child's
110 school is regularly dismissed until 8:30 p.m., unless the court directs the application of
111 Subsection (2)(a)(i);

112 (b) (i) alternating weekends beginning on the first weekend after the entry of the decree
113 from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year; or

114 (ii) at the election of the noncustodial parent, from the time the child's school is
115 regularly dismissed on Friday until 7 p.m. on Sunday, unless the court directs the application of
116 Subsection (2)(b)(i);

117 (c) holidays take precedence over the weekend parent-time, and changes shall not be
118 made to the regular rotation of the alternating weekend parent-time schedule;

119 (d) if a holiday falls on a regularly scheduled school day, the noncustodial parent shall
120 be responsible for the child's attendance at school for that school day;

121 (e) (i) if a holiday falls on a weekend or on a Friday or Monday and the total holiday
122 period extends beyond that time so that the child is free from school and the parent is free from
123 work, the noncustodial parent shall be entitled to this lengthier holiday period; or

124 (ii) at the election of the noncustodial parent, parent-time over a scheduled holiday
125 weekend may begin from the time the child's school is regularly dismissed at the beginning of
126 the holiday weekend until 7 p.m. on the last day of the holiday weekend;

127 (f) in years ending in an odd number, the noncustodial parent is entitled to the
128 following holidays:

129 (i) child's birthday on the day before or after the actual birthdate beginning at 3 p.m.
130 until 9 p.m.; at the discretion of the noncustodial parent, he may take other siblings along for
131 the birthday;

132 (ii) Martin Luther King, Jr. beginning 6 p.m. on Friday until Monday at 7 p.m. unless
133 the holiday extends for a lengthier period of time to which the noncustodial parent is
134 completely entitled;

135 (iii) spring break or Easter holiday beginning at 6 p.m. on the day school lets out for
136 the holiday until 7 p.m. on the Sunday before school resumes;

137 (iv) Memorial Day beginning 6 p.m. on Friday until Monday at 7 p.m., unless the
138 holiday extends for a lengthier period of time to which the noncustodial parent is completely
139 entitled;

140 (v) July 24th beginning 6 p.m. on the day before the holiday until 11 p.m. on the
141 holiday;

142 (vi) Veteran's Day holiday beginning 6 p.m. the day before the holiday until 7 p.m. on
143 the holiday; and

144 (vii) the first portion of the Christmas school vacation as defined in Subsection
145 30-3-32(3)(b) plus Christmas Eve and Christmas Day until 1 p.m., so long as the entire holiday
146 is equally divided;

147 (g) in years ending in an even number, the noncustodial parent is entitled to the
148 following holidays:

149 (i) child's birthday on actual birthdate beginning at 3 p.m. until 9 p.m.; at the discretion
150 of the noncustodial parent, he may take other siblings along for the birthday;

151 (ii) Washington and Lincoln Day beginning at 6 p.m. on Friday until 7 p.m. on Monday

152 unless the holiday extends for a lengthier period of time to which the noncustodial parent is
153 completely entitled;

154 (iii) July 4th beginning at 6 p.m. the day before the holiday until 11 p.m. on the
155 holiday;

156 (iv) Labor Day beginning at 6 p.m. on Friday until Monday at 7 p.m. unless the holiday
157 extends for a lengthier period of time to which the noncustodial parent is completely entitled;

158 (v) the fall school break, if applicable, commonly known as U.E.A. weekend beginning
159 at 6 p.m. on Wednesday until Sunday at 7 p.m. unless the holiday extends for a lengthier period
160 of time to which the noncustodial parent is completely entitled;

161 (vi) Columbus Day beginning at 6 p.m. the day before the holiday until 7 p.m. on the
162 holiday;

163 (vii) Thanksgiving holiday beginning Wednesday at 7 p.m. until Sunday at 7 p.m.; and

164 (viii) the second portion of the Christmas school vacation, including New Year's Day,
165 as defined in Subsection 30-3-32(3)(b) plus Christmas day beginning at 1 p.m. until 9 p.m., so
166 long as the entire Christmas holiday is equally divided;

167 (h) the custodial parent is entitled to the odd year holidays in even years and the even
168 year holidays in odd years;

169 (i) Father's Day shall be spent with the natural or adoptive father every year beginning
170 at 9 a.m. until 7 p.m. on the holiday;

171 (j) Mother's Day shall be spent with the natural or adoptive mother every year
172 beginning at 9 a.m. until 7 p.m. on the holiday;

173 (k) extended parent-time with the noncustodial parent may be:

174 (i) up to four weeks consecutive at the option of the noncustodial parent;

175 (ii) two weeks shall be uninterrupted time for the noncustodial parent; and

176 (iii) the remaining two weeks shall be subject to parent-time for the custodial parent
177 consistent with these guidelines;

178 (l) the custodial parent shall have an identical two-week period of uninterrupted time
179 during the children's summer vacation from school for purposes of vacation;

180 (m) if the child is enrolled in year-round school, the noncustodial parent's extended
181 parent-time shall be 1/2 of the vacation time for year-round school breaks, provided the
182 custodial parent has holiday and phone visits;

183 (n) notification of extended parent-time or vacation weeks with the child shall be
184 provided at least 30 days in advance to the other parent; and

185 (o) telephone contact and virtual parent-time shall be at reasonable hours and for
186 reasonable duration.

187 (3) Any elections required to be made in accordance with this section by either parent
188 concerning parent-time shall be made a part of the decree and made a part of the parent-time
189 order.

190 Section 4. Section **30-3-35.5** is amended to read:

191 **30-3-35.5. Minimum schedule for parent-time for children under five years of**
192 **age.**

193 (1) The parent-time schedule in this section applies to children under five years old.

194 (2) If the parties do not agree to a parent-time schedule, the following schedule shall be
195 considered the minimum parent-time to which the noncustodial parent and the child shall be
196 entitled:

197 (a) for children under five months of age:

198 (i) six hours of parent-time per week to be specified by the court or the noncustodial
199 parent preferably:

200 (A) divided into three parent-time periods; and

201 (B) in the custodial home, established child care setting, or other environment familiar
202 to the child; and

203 (ii) two hours on holidays and in the years specified in Subsections 30-3-35(2)(f)
204 through (i) preferably in the custodial home, the established child care setting, or other
205 environment familiar to the child;

206 (b) for children five months of age or older, but younger than ten months of age:

207 (i) nine hours of parent-time per week to be specified by the court or the noncustodial
208 parent preferably:

209 (A) divided into three parent-time periods; and

210 (B) in the custodial home, established child care setting, or other environment familiar
211 to the child; and

212 (ii) two hours on the holidays and in the years specified in Subsections 30-3-35(2)(f)
213 through (i) preferably in the custodial home, the established child care setting, or other

214 environment familiar to the child;

215 (c) for children ten months of age or older, but younger than 18 months of age:

216 (i) one eight hour visit per week to be specified by the noncustodial parent or court;

217 (ii) one three hour visit per week to be specified by the noncustodial parent or court;

218 (iii) eight hours on the holidays and in the years specified in Subsections 30-3-35(2)(f)

219 through (i); and

220 (iv) brief phone contact, using virtual parent-time with audio and visual capability

221 when the equipment reasonably can be made available, with the noncustodial parent at least

222 two times per week;

223 (d) for children 18 months of age or older, but younger than three years of age:

224 (i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the

225 noncustodial parent or court; however, if the child is being cared for during the day outside his

226 regular place of residence, the noncustodial parent may, with advance notice to the custodial

227 parent, pick up the child from the caregiver at an earlier time and return him to the custodial

228 parent by 8:30 p.m.;

229 (ii) alternative weekends beginning on the first weekend after the entry of the decree

230 from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;

231 (iii) parent-time on holidays as specified in Subsections 30-3-35(2)(c) through (i);

232 (iv) extended parent-time may be:

233 (A) two one-week periods, separated by at least four weeks, at the option of the

234 noncustodial parent;

235 (B) one week shall be uninterrupted time for the noncustodial parent;

236 (C) the remaining week shall be subject to parent-time for the custodial parent

237 consistent with these guidelines; and

238 (D) the custodial parent shall have an identical one-week period of uninterrupted time

239 for vacation; and

240 (v) brief phone contact, using virtual parent-time with audio and visual capability when

241 the equipment reasonably can be made available, with the noncustodial parent at least two

242 times per week;

243 (e) for children three years of age or older, but younger than five years of age:

244 (i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the

245 noncustodial parent or court; however, if the child is being cared for during the day outside his
 246 regular place of residence, the noncustodial parent may, with advance notice to the custodial
 247 parent, pick up the child from the caregiver at an earlier time and return him to the custodial
 248 parent by 8:30 p.m.;

249 (ii) alternative weekends beginning on the first weekend after the entry of the decree
 250 from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;

251 (iii) parent-time on holidays as specified in Subsections 30-3-35(2)(c) through (i);

252 (iv) extended parent-time with the noncustodial parent may be:

253 (A) two two-week periods, separated by at least four weeks, at the option of the
 254 noncustodial parent;

255 (B) one two-week period shall be uninterrupted time for the noncustodial parent;

256 (C) the remaining two-week period shall be subject to parent-time for the custodial
 257 parent consistent with these guidelines; and

258 (D) the custodial parent shall have an identical two-week period of uninterrupted time
 259 for vacation; and

260 (v) brief phone contact, using virtual parent-time with audio and visual capability when
 261 the equipment reasonably can be made available, with the noncustodial parent at least two
 262 times per week.

263 (3) A parent shall notify the other parent at least 30 days in advance of extended
 264 parent-time or vacation weeks.

265 (4) Telephone contact ~~h~~ **[or]** **AND** ~~h~~ virtual parent-time shall be at reasonable hours and for
 266 reasonable duration.

Legislative Review Note
 as of 1-15-04 12:49 PM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0082

Virtual Visitation Amendments

21-Jan-04

2:52 PM

State Impact

No fiscal impact.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst