

Representative Douglas C. Aagard proposes the following substitute bill:

VIRTUAL VISITATION AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Douglas C. Aagard

LONG TITLE

General Description:

This bill provides that, if available, reasonable virtual access be permitted and encouraged between children and a noncustodial parent.

Highlighted Provisions:

This bill:

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

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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



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

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

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 telephone,
49 email, instant messaging, video conferencing and other wired or wireless technologies over the
50 Internet or other communication media to supplement in-person visits between a noncustodial
51 parent and a child or between a child and the custodial parent when the child is staying with the
52 noncustodial parent. Virtual parent-time is designed to supplement, not replace, in-person
53 parent-time.

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

55 **30-3-33. Advisory guidelines.**

56 In addition to the parent-time schedules provided in Sections 30-3-35 and 30-3-35.5,

57 advisory guidelines are suggested to govern all parent-time arrangements between parents.

58 These advisory guidelines include:

59 (1) parent-time schedules mutually agreed upon by both parents are preferable to a
60 court-imposed solution;

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

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

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

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

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

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

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

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

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

87 (11) each parent shall provide the other with his current address and telephone number.

88 email address, and other virtual parent-time access information within 24 hours of any change;

89 (12) each parent shall permit and encourage [~~liberal telephone contact~~], during
90 reasonable hours, reasonable and uncensored [~~mail privileges~~] communications with the child,
91 in the form of mail privileges and virtual parent-time if the equipment is reasonably available;
92 provided that if the parties cannot agree on whether the equipment is reasonably available, the
93 court shall decide whether the equipment for virtual parent-time is reasonably available, taking
94 into consideration:

- 95 (i) the best interests of the child;
- 96 (ii) each parent's ability to handle any additional expenses for virtual parent-time; and
- 97 (iii) any other factors the court considers material;

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

101 (14) each parent shall provide all surrogate care providers with the name, current
102 address, and telephone number of the other parent and shall provide the noncustodial parent
103 with the name, current address, and telephone number of all surrogate care providers unless the
104 court for good cause orders otherwise; and

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

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

109 **30-3-35. Minimum schedule for parent-time for children 5 to 18 years of age.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

149 (vi) Veteran's Day holiday beginning 6 p.m. the day before the holiday until 7 p.m. on

150 the holiday; and

151 (vii) the first portion of the Christmas school vacation as defined in Subsection
152 30-3-32(3)(b) plus Christmas Eve and Christmas Day until 1 p.m., so long as the entire holiday
153 is equally divided;

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

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

158 (ii) Washington and Lincoln Day beginning at 6 p.m. on Friday until 7 p.m. on Monday
159 unless the holiday extends for a lengthier period of time to which the noncustodial parent is
160 completely entitled;

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

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

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

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

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

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

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

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

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

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

181 (i) up to four weeks consecutive at the option of the noncustodial parent;
182 (ii) two weeks shall be uninterrupted time for the noncustodial parent; and
183 (iii) the remaining two weeks shall be subject to parent-time for the custodial parent
184 consistent with these guidelines;

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

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

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

192 (o) telephone contact and other virtual parent-time, if the equipment is reasonably
193 available, shall be at reasonable hours and for reasonable duration; provided that if the parties
194 cannot agree on whether the equipment is reasonably available, the court shall decide whether
195 the equipment for virtual parent-time is reasonably available, taking into consideration:

196 (i) the best interests of the child;

197 (ii) each parent's ability to handle any additional expenses for virtual parent-time; and

198 (iii) any other factors the court considers material.

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

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

203 **30-3-35.5. Minimum schedule for parent-time for children under five years of**
204 **age.**

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

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

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

210 (i) six hours of parent-time per week to be specified by the court or the noncustodial
211 parent preferably;

212 (A) divided into three parent-time periods; and
213 (B) in the custodial home, established child care setting, or other environment familiar
214 to the child; and
215 (ii) two hours on holidays and in the years specified in Subsections 30-3-35(2)(f)
216 through (i) preferably in the custodial home, the established child care setting, or other
217 environment familiar to the child;
218 (b) for children five months of age or older, but younger than ten months of age:
219 (i) nine hours of parent-time per week to be specified by the court or the noncustodial
220 parent preferably:
221 (A) divided into three parent-time periods; and
222 (B) in the custodial home, established child care setting, or other environment familiar
223 to the child; and
224 (ii) two hours on the holidays and in the years specified in Subsections 30-3-35(2)(f)
225 through (i) preferably in the custodial home, the established child care setting, or other
226 environment familiar to the child;
227 (c) for children ten months of age or older, but younger than 18 months of age:
228 (i) one eight hour visit per week to be specified by the noncustodial parent or court;
229 (ii) one three hour visit per week to be specified by the noncustodial parent or court;
230 (iii) eight hours on the holidays and in the years specified in Subsections 30-3-35(2)(f)
231 through (i); and
232 (iv) brief [phone] telephone contact and other virtual parent-time, if the equipment is
233 reasonably available, with the noncustodial parent at least two times per week; provided that if
234 the parties cannot agree on whether the equipment is reasonably available, the court shall
235 decide whether the equipment for virtual parent-time is reasonably available, taking into
236 consideration:
237 (i) the best interests of the child;
238 (ii) each parent's ability to handle any additional expenses for virtual parent-time; and
239 (iii) any other factors the court considers material;
240 (d) for children 18 months of age or older, but younger than three years of age:
241 (i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the
242 noncustodial parent or court; however, if the child is being cared for during the day outside his

243 regular place of residence, the noncustodial parent may, with advance notice to the custodial
244 parent, pick up the child from the caregiver at an earlier time and return him to the custodial
245 parent by 8:30 p.m.;

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

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

249 (iv) extended parent-time may be:

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

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

253 (C) the remaining week shall be subject to parent-time for the custodial parent
254 consistent with these guidelines; and

255 (D) the custodial parent shall have an identical one-week period of uninterrupted time
256 for vacation; and

257 (v) brief ~~[phone]~~ telephone contact and virtual parent-time, if the equipment is
258 reasonably available, with the noncustodial parent at least two times per week; provided that if
259 the parties cannot agree on whether the equipment is reasonably available, the court shall
260 decide whether the equipment for virtual parent-time is reasonably available, taking into
261 consideration:

262 (i) the best interests of the child;

263 (ii) each parent's ability to handle any additional expenses for virtual parent-time; and

264 (iii) any other factors the court considers material;

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

266 (i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the
267 noncustodial parent or court; however, if the child is being cared for during the day outside his
268 regular place of residence, the noncustodial parent may, with advance notice to the custodial
269 parent, pick up the child from the caregiver at an earlier time and return him to the custodial
270 parent by 8:30 p.m.;

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

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

274 (iv) extended parent-time with the noncustodial parent may be:
275 (A) two two-week periods, separated by at least four weeks, at the option of the
276 noncustodial parent;
277 (B) one two-week period shall be uninterrupted time for the noncustodial parent;
278 (C) the remaining two-week period shall be subject to parent-time for the custodial
279 parent consistent with these guidelines; and
280 (D) the custodial parent shall have an identical two-week period of uninterrupted time
281 for vacation; and
282 (v) brief [~~phone~~] telephone contact and virtual parent-time, if the equipment is
283 reasonably available, with the noncustodial parent at least two times per week; provided that if
284 the parties cannot agree on whether the equipment is reasonably available, the court shall
285 decide whether the equipment for virtual parent-time is reasonably available, taking into
286 consideration:
287 (i) the best interests of the child;
288 (ii) each parent's ability to handle any additional expenses for virtual parent-time; and
289 (iii) any other factors the court considers material.
290 (3) A parent shall notify the other parent at least 30 days in advance of extended
291 parent-time or vacation weeks.
292 (4) [~~Telephone contact~~] Virtual parent-time shall be at reasonable hours and for
293 reasonable duration.