

Representative Brad L. Dee proposes the following substitute bill:

PARENT-TIME AMENDMENTS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad L. Dee

Senate Sponsor: _____

LONG TITLE

General Description:

This bill provides requirements for parent-time when domestic violence is involved.

Highlighted Provisions:

This bill:

- ▶ requires that a court not allow parent-time unless the parent who is the perpetrator of domestic violence completes an appropriate treatment plan;
- ▶ requires that if a protective order or civil stalking injunction is in place, a third party must be utilized to conduct parent-time;
- ▶ allows for changes to a parenting plan as needed; and
- ▶ makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-10.7, as last amended by Chapter 142, Laws of Utah 2005

30-3-32, as last amended by Chapter 321, Laws of Utah 2004



26 ENACTS:

27 **30-3-10.10**, Utah Code Annotated 1953



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

30 Section 1. Section **30-3-10.7** is amended to read:

31 **30-3-10.7. Parenting plan -- Definitions.**

32 (1) "Domestic violence" means the same as in Section 77-36-1.

33 [~~(1)~~] (2) "Parenting plan" means a plan for parenting a child, including allocation of
34 parenting functions, which is incorporated in any final decree or decree of modification
35 including an action for dissolution of marriage, annulment, legal separation, or paternity.

36 [~~(2)~~] (3) "Parenting functions" means those aspects of the parent-child relationship in
37 which the parent makes decisions and performs functions necessary for the care and growth of
38 the child. Parenting functions include:

39 (a) maintaining a loving, stable, consistent, and nurturing relationship with the child;

40 (b) attending to the daily needs of the child, such as feeding, clothing, physical care,
41 grooming, supervision, health care, day care, and engaging in other activities which are
42 appropriate to the developmental level of the child and that are within the social and economic
43 circumstances of the particular family;

44 (c) attending to adequate education for the child, including remedial or other education
45 essential to the best interest of the child;

46 (d) assisting the child in developing and maintaining appropriate interpersonal
47 relationships;

48 (e) exercising appropriate judgment regarding the child's welfare, consistent with the
49 child's developmental level and family social and economic circumstances; and

50 (f) providing for the financial support of the child.

51 Section 2. Section **30-3-10.10** is enacted to read:

52 **30-3-10.10. Parenting plan -- Domestic violence.**

53 (1) In any proceeding regarding a parenting plan, the court shall consider evidence of
54 domestic violence, if presented.

55 (2) If a protective order issued in accordance with Title 30, Chapter 6, Cohabitant
56 Abuse Act, or civil stalking injunction issued in accordance with Title 77, Chapter 3a, Stalking

57 Injunctions, is currently in force against a parent, the court shall consider whether it is in the
58 best interests of any children to allow parent-time with the parent who is the subject of the
59 order or injunction.

60 (3) If there is no protective order or civil stalking injunction currently in place, the
61 court may consider evidence that a parent has committed domestic violence. If the court finds
62 that domestic violence has been committed, it shall consider whether it is in the best interests
63 of any children to allow parent-time with the parent the court has found to have committed
64 domestic violence.

65 (4) If there is a protective order, civil stalking injunction, or the court finds that a
66 parent has committed domestic violence, the court may not order parent-time unless the parent
67 found to have committed domestic violence submits proof of completion of an appropriate
68 treatment program.

69 (5) If the court orders parent-time and a protective order or civil stalking injunction is
70 still in place, it shall order that a third party be responsible for pick-up, transfer, and delivery of
71 any children between the parents. The parent who is the stated victim in the order or injunction
72 may submit to the court, and the court shall consider, the name of a person considered suitable
73 to act as the third party.

74 (6) The parenting plan, in the case of domestic violence, shall specify the time, day,
75 place, manner, and the third party to be used to implement the exchange.

76 (7) If the terms and conditions of the order need to be changed, either party may seek a
77 preliminary determination by the court for a temporary change subject to the issuance of an
78 amended order.

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

80 **30-3-32. Parent-time -- Intent -- Policy -- Definitions.**

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

83 (2) (a) A court shall consider as primary the safety and well-being of the child and the
84 parent who is the victim of domestic or family violence.

85 ~~(b)~~ (b) Absent a showing by a preponderance of evidence of real harm or
86 substantiated potential harm to the child:

87 ~~(i)~~ (i) it is in the best interests of the child of divorcing, divorced, or adjudicated

88 parents to have frequent, meaningful, and continuing access to each parent following separation
89 or divorce;

90 ~~[(b)]~~ (ii) each divorcing, separating, or adjudicated parent is entitled to and responsible
91 for frequent, meaningful, and continuing access with his child consistent with the child's best
92 interests; and

93 ~~[(c)]~~ (iii) it is in the best interests of the child to have both parents actively involved in
94 parenting the child.

95 (c) An order issued by a court pursuant to Title 30, Chapter 6, Cohabitant Abuse Act
96 shall be considered evidence of real harm or substantiated potential harm to the child.

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

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

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

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

105 (d) "Virtual parent-time" means parent-time facilitated by tools such as telephone,
106 email, instant messaging, video conferencing, and other wired or wireless technologies over the
107 Internet or other communication media to supplement in-person visits between a noncustodial
108 parent and a child or between a child and the custodial parent when the child is staying with the
109 noncustodial parent. Virtual parent-time is designed to supplement, not replace, in-person
110 parent-time.

111 (4) If a parent relocates because of an act of domestic violence or family violence by
112 the other parent, the court shall make specific findings and orders with regards to the
113 application of Section 30-3-37.