

CHILD CUSTODY DETERMINATIONS

2006 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lorie D. Fowlke

Senate Sponsor: _____

LONG TITLE

General Description:

This bill provides a definition for bonding as used in custody and parent-time determinations.

Highlighted Provisions:

This bill:

- ▶ creates a definition of "bonding"; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-34, as last amended by Chapter 255, Laws of Utah 2001

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

Section 1. Section **30-3-34** is amended to read:

30-3-34. Best interests -- Rebuttable presumption.

(1) If the parties are unable to agree on a parent-time schedule, the court may establish a parent-time schedule consistent with the best interests of the child.



(2) The advisory guidelines as provided in Section 30-3-33 and the parent-time schedule as provided in Sections 30-3-35 and 30-3-35.5 shall be presumed to be in the best interests of the child. The parent-time schedule shall be considered the minimum parent-time to which the noncustodial parent and the child shall be entitled unless a parent can establish otherwise by a preponderance of the evidence that more or less parent-time should be awarded based upon any of the following criteria:

(a) parent-time would endanger the child's physical health or significantly impair the child's emotional development;

(b) the distance between the [~~residency~~] residence of the child and the noncustodial parent;

(c) a substantiated or unfounded allegation of child abuse has been made;

(d) the lack of demonstrated parenting skills without safeguards to ensure the child's well-being during parent-time;

(e) the financial inability of the noncustodial parent to provide adequate food and shelter for the child during periods of parent-time;

(f) the preference of the child if the court determines the child to be of sufficient maturity;

(g) the incarceration of the noncustodial parent in a county jail, secure youth corrections facility, or an adult corrections facility;

(h) shared interests between the child and the noncustodial parent;

(i) the involvement of the noncustodial parent in the school, community, religious, or other related activities of the child;

(j) the availability of the noncustodial parent to care for the child when the custodial parent is unavailable to do so because of work or other circumstances;

(k) a substantial and chronic pattern of missing, canceling, or denying regularly scheduled parent-time;

(l) the minimal duration of and lack of significant bonding in the parents' relationship prior to the conception of the child;

(m) the parent-time schedule of siblings;

(n) the lack of reasonable alternatives to the needs of a nursing child; and

(o) any other criteria the court determines relevant to the best interests of the child.

- 59 (3) The court shall enter the reasons underlying its order for parent-time that:
60 (a) incorporates a parent-time schedule provided in Section 30-3-35 or 30-3-35.5; or
61 (b) provides more or less parent-time than a parent-time schedule provided in Section
62 30-3-35 or 30-3-35.5.
63 (4) Once the parent-time schedule has been established, the parties may not alter the
64 schedule except by mutual consent of the parties or a court order.
65 (5) As used in this chapter, "bonding" means the depth and nature of the relationship
66 between a parent and child.

Legislative Review Note
as of 12-6-05 2:57 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0245

Child Custody Determinations

19-Jan-06
11:05 AM

State Impact
No fiscal impact.

Individual and Business Impact
No fiscal impact.

Office of the Legislative Fiscal Analyst