

EXPEDITED PARENT-TIME ENFORCEMENT

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Julie Fisher

Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill expands the Expedited Parent-time Enforcement Program to the entire state.

Highlighted Provisions:

This bill:

► converts the Expedited Parent-time Enforcement Program from a pilot program in the Third Judicial District to a statewide program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-38, as last amended by Chapter 352, Laws of Utah 2004

63-63a-8, as last amended by Chapters 46 and 255, Laws of Utah 2001

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

Section 1. Section **30-3-38** is amended to read:

30-3-38. Expedited Parent-time Enforcement Program.

(1) There is established an Expedited Parent-time Enforcement [~~Pilot~~] Program [~~in the third judicial district~~] to be administered by the Administrative Office of the Courts [~~from July~~]



28 1, 2003, to July 1, 2007].

29 (2) As used in this section:

30 (a) "Mediator" means a person who:

31 (i) is qualified to mediate parent-time disputes under criteria established by the

32 Administrative Office of the Courts; and

33 (ii) agrees to follow billing guidelines established by the Administrative Office of the

34 Courts and this section.

35 (b) "Services to facilitate parent-time" or "services" means services designed to assist

36 families in resolving parent-time problems through:

37 (i) counseling;

38 (ii) supervised parent-time;

39 (iii) neutral drop-off and pick-up;

40 (iv) educational classes; and

41 (v) other related activities.

42 (3) (a) [~~Under this pilot program, if~~] If a parent files a motion in the [third] district

43 court alleging that court-ordered parent-time rights are being violated, the clerk of the court,

44 after assigning the case to a judge, shall refer the case to the administrator of this [pilot]

45 program for assignment to a mediator, unless a parent is incarcerated or otherwise unavailable.

45a **H→ The director of the program for the courts, the court, or the mediator may excuse either**
45b **party from the requirement to mediate for good cause. ←H**

46 Unless the court rules otherwise, a parent residing outside of the state is not unavailable.

47 (b) Upon receipt of a case, the mediator shall:

48 (i) meet with the parents to address parent-time issues within 15 days of the motion

49 being filed;

50 (ii) assess the situation;

51 (iii) facilitate an agreement on parent-time between the parents; and

52 (iv) determine whether a referral to a service provider under Subsection (3)(c) is

53 warranted.

54 (c) While a case is in mediation, a mediator may refer the parents to a service provider
55 designated by the Department of Human Services for services to facilitate parent-time if:

56 (i) the services may be of significant benefit to the parents; or

57 (ii) (A) a mediated agreement between the parents is unlikely; and

58 (B) the services may facilitate an agreement.

59 (d) At any time during mediation, a mediator shall terminate mediation and transfer the
60 case to the administrator of the [pilot] program for referral to the judge or court commissioner
61 to whom the case was assigned under Subsection (3)(a) if:

- 62 (i) a written agreement between the parents is reached; or
63 (ii) the parents are unable to reach an agreement through mediation and:
64 (A) the parents have received services to facilitate parent-time;
65 (B) both parents object to receiving services to facilitate parent-time; or
66 (C) the parents are unlikely to benefit from receiving services to facilitate parent-time.

67 (e) Upon receiving a case from the administrator of the [pilot] program, a judge or
68 court commissioner may:

- 69 (i) review the agreement of the parents and, if acceptable, sign it as an order;
70 (ii) order the parents to receive services to facilitate parent-time;
71 (iii) proceed with the case; or
72 (iv) take other appropriate action.

73 (4) (a) If a parent makes a particularized allegation of physical or sexual abuse of a
74 child who is the subject of a parent-time order against the other parent or a member of the other
75 parent's household to a mediator or service provider, the mediator or service provider shall
76 immediately report that information to:

77 (i) the judge assigned to the case who may immediately issue orders and take other
78 appropriate action to resolve the allegation and protect the child; and

79 (ii) the Division of Child and Family Services within the Department of Human
80 Services in the manner required by Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect
81 Reporting Requirements.

82 (b) If an allegation under Subsection (4)(a) is made against a parent with parent-time
83 rights or a member of that parent's household, parent-time by that parent shall, pursuant to an
84 order of the court, be supervised until:

- 85 (i) the allegation has been resolved; or
86 (ii) a court orders otherwise.

87 (c) Notwithstanding an allegation under Subsection (4)(a), a mediator may continue to
88 mediate parent-time problems and a service provider may continue to provide services to
89 facilitate parent-time unless otherwise ordered by a court.

90 (5) (a) The Department of Human Services may contract with one or more entities in
91 accordance with Title 63, Chapter 56, Utah Procurement Code, to provide:

- 92 (i) services to facilitate parent-time;
- 93 (ii) case management services; and
- 94 (iii) administrative services.

95 (b) An entity who contracts with the Department of Human Services under Subsection
96 (5)(a) shall:

- 97 (i) be qualified to provide one or more of the services listed in Subsection (5)(a); and
- 98 (ii) agree to follow billing guidelines established by the Department of Human Services
99 and this section.

100 (6) (a) Except as provided in Subsection (6)(b), the cost of mediation shall be:

- 101 (i) reduced to a sum certain;
- 102 (ii) divided equally between the parents; and
- 103 (iii) charged against each parent taking into account the ability of that parent to pay
104 under billing guidelines adopted in accordance with this section.

105 (b) A judge may order a parent to pay an amount in excess of that provided for in
106 Subsection (6)(a) if the parent:

- 107 (i) failed to participate in good faith in mediation or services to facilitate parent-time;
- 108 or
- 109 (ii) made an unfounded assertion or claim of physical or sexual abuse of a child.

110 (c) (i) The cost of mediation and services to facilitate parent-time may be charged to
111 parents at periodic intervals.

112 (ii) Mediation and services to facilitate parent-time may only be terminated on the
113 ground of nonpayment if both parents are delinquent.

114 (7) If a parent fails to cooperate in good faith ~~H→~~ , **as defined in the Utah Rules of Court-**
114a **Annexed Alternative Dispute Resolution, ←H** in mediation or services to facilitate
115 parent-time, a court may order, in subsequent proceedings, a temporary change in custody or
116 parent-time ~~H→~~ **based upon the best interests of the child ←H** .

117 (8) (a) The Judicial Council may make rules to implement and administer the
118 provisions of this [pilot] program related to mediation.

119 (b) The Department of Human Services may make rules to implement and administer
120 the provisions of this [pilot] program related to services to facilitate parent-time.

121 (9) (a) The Administrative Office of the Courts shall adopt outcome measures to
122 evaluate the effectiveness of the mediation component of this [~~pilot~~] program. Progress reports
123 shall be provided to the Judiciary Interim Committee as requested by the committee. [~~At least~~
124 ~~once during this pilot program, the Administrative Office of the Courts shall present to the~~
125 ~~committee the results of a survey that measures the effectiveness of the program in terms of~~
126 ~~increased compliance with parent-time orders and the responses of interested persons.]~~

127 (b) The Department of Human Services shall adopt outcome measures to evaluate the
128 effectiveness of the services component of this [~~pilot~~] program. Progress reports shall be
129 provided to the Judiciary Interim Committee as requested by the committee.

130 (c) The Administrative Office of the Courts and the Department of Human Services
131 may adopt joint outcome measures and file joint reports to satisfy the requirements of
132 Subsections (8)(a) and (b).

133 (10) [~~(a)~~] The Department of Human Services shall, by following the procedures and
134 requirements of Title 63, Chapter 38e, Federal Funds Procedures, apply for federal funds as
135 available.

136 [~~(b) This pilot program shall be funded through funds received under Subsection~~
137 ~~(10)(a).]~~

138 Section 2. Section ~~63-63a-8~~ is amended to read:

139 **~~63-63a-8. Children's Legal Defense Account.~~**

140 (1) There is created a restricted account within the General Fund known as the
141 Children's Legal Defense Account.

142 (2) The purpose of the Children's Legal Defense Account is to provide for programs
143 that protect and defend the rights, safety, and quality of life of children.

144 (3) The Legislature shall appropriate money from the account for the administrative
145 and related costs of the following programs:

146 (a) implementing the Mandatory Educational Course on Children's Needs for
147 Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4,
148 30-3-7, 30-3-10.3, 30-3-11.3, 30-3-15.3, and 30-3-18, and the Mediation [~~Pilot~~] Program -
149 Child Custody or Parent-time as provided in Sections 30-3-15.3 and 30-3-18;

150 (b) implementing the use of guardians ad litem as provided in Sections 30-3-5.2,
151 78-3a-318, 78-3a-912, 78-11-6, and 78-7-9; the training of guardian ad litem and volunteers as

152 provided in Section 78-3a-912; and termination of parental rights as provided in Sections
153 78-3a-118, 78-3a-119, 78-3a-903, and Title 78, Chapter 3a, Part 4, Termination of Parental
154 Rights Act. This account may not be used to supplant funding for the guardian ad litem
155 program in the juvenile court as provided in Section 78-3a-912; and

156 (c) implementing and administering the Expedited Parent-time Enforcement [~~Pilot~~]
157 Program as provided in Section 30-3-38.

158 (4) The following withheld fees shall be allocated only to the Children's Legal Defense
159 Account and used only for the purposes provided in Subsections (3)(a) through (c):

160 (a) the additional \$10 fee withheld on every marriage license issued in the state of Utah
161 as provided in Section 17-16-21; and

162 (b) a fee of \$2 shall be withheld from the existing civil filing fee collected on any
163 complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.

164 (5) The Division of Finance shall allocate the monies described in Subsection (4) from
165 the General Fund to the Children's Legal Defense Account.

166 (6) Any funds in excess of \$200,000 remaining in the restricted account as of June 30
167 of any fiscal year shall lapse into the General Fund.

Legislative Review Note
as of 11-15-06 2:54 PM

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-13-06 1:44 PM

The Judiciary Interim Committee recommended this bill.

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Fiscal Note

2007 General Session
State of Utah

State Impact

Enactment of this bill will require \$256,300 in additional General Fund. Federal matching funds will increase by \$100,000 annually. Funding will be used to expand Expedited Parent-time Enforcement statewide.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>
General Fund	\$0	\$255,600	\$255,600	\$0	\$0	\$0
Federal Funds	\$0	\$100,000	\$100,000	\$0	\$100,000	\$100,000
Total	\$0	\$355,600	\$355,600	\$0	\$100,000	\$100,000

Individual, Business and/or Local Impact

Enactment of this bill may create a fiscal impact on individuals.
