

**PARENT-TIME AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lorie D. Fowlke**

Senate Sponsor: Gregory S. Bell

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**LONG TITLE**

**Committee Note:**

The Judiciary Interim Committee recommended this bill.

**General Description:**

This bill rearranges some parent-time days, clarifies terms and requirements, and makes technical changes.

**Highlighted Provisions:**

This bill:

▶ changes the following parent-time days from even to odd years:

- July 4;
- Labor Day; ~~H→~~ **and**
- [~~Thanksgiving~~] **Fall Break** ~~←H~~ ; ~~H→~~ [~~and~~
- ~~second portion of Christmas break;~~] ~~←H~~

▶ changes the following parent-time days from odd to even years:

- Memorial Day;
- July 24; ~~H→~~ **and** ~~←H~~
- Halloween; ~~H→~~ [~~and~~

- ~~first portion of Christmas break;~~
- ▶ ~~eliminates the following parent-time days:~~
- ~~Columbus Day; and~~
- ~~Veteran's Day;~~] ~~←H~~

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28           ▶ allows for the election of an entire weekday by the noncustodial parent if school is  
29 not in session; and

30           ▶ includes snow days, teacher development days, and other days when school is not in  
31 session in the definition of holidays.

32 **Monies Appropriated in this Bill:**

33           None

34 **Other Special Clauses:**

35           None

36 **Utah Code Sections Affected:**

37 AMENDS:

38           **30-3-32**, as last amended by Laws of Utah 2006, Chapter 287

39           **30-3-33**, as last amended by Laws of Utah 2004, Chapters 132 and 321

40           **30-3-34**, as last amended by Laws of Utah 2001, Chapter 255

41           **30-3-35**, as last amended by Laws of Utah 2007, Chapter 302

42           **30-3-35.5**, as last amended by Laws of Utah 2007, Chapter 302

43           **30-3-37**, as last amended by Laws of Utah 2006, Chapter 195



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

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

47           **30-3-32. Parent-time -- Intent -- Policy -- Definitions.**

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

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

52           (b) Absent a showing by a preponderance of evidence of real harm or substantiated  
53 potential harm to the child:

54           (i) it is in the best interests of the child of divorcing, divorced, or adjudicated parents to  
55 have frequent, meaningful, and continuing access to each parent following separation or  
56 divorce;

57           (ii) each divorcing, separating, or adjudicated parent is entitled to and responsible for  
58 frequent, meaningful, and continuing access with his child consistent with the child's best

59 interests; and

60 (iii) it is in the best interests of the child to have both parents actively involved in  
61 parenting the child.

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

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

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

66 (b) "Christmas school vacation" means the time period beginning on the evening the  
67 child gets out of school for the Christmas or winter school break until the evening before the  
68 child returns to school~~[-, except for Christmas Eve and Christmas Day].~~

69 (c) "Extended parent-time" means a period of parent-time other than a weekend,  
70 holiday as provided in Subsections 30-3-35(2)(f) and (2)(g), religious holidays as provided in  
71 Subsections 30-3-33(3) and ~~[(15)](17)~~, and "Christmas school vacation."

72 (d) "Surrogate care" means care by any individual other than the parent of the child.

73 (e) "Uninterrupted time" means parent-time exercised by one parent without  
74 interruption at any time by the presence of the other parent ~~or by telephone from the other~~  
75 parent if the child is over the age of five years; however, the child may call the other parent if  
76 they desire to do so at reasonable hours and for reasonable duration] ←~~§~~ .

77 ~~[(d)]~~ (f) "Virtual parent-time" means parent-time facilitated by tools such as telephone,  
78 email, instant messaging, video conferencing, and other wired or wireless technologies over the  
79 Internet or other communication media to supplement in-person visits between a noncustodial  
80 parent and a child or between a child and the custodial parent when the child is staying with the  
81 noncustodial parent. Virtual parent-time is designed to supplement, not replace, in-person  
82 parent-time.

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

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

87 **30-3-33. Advisory guidelines.**

88 In addition to the parent-time schedules provided in Sections 30-3-35 and 30-3-35.5,  
89 the following advisory guidelines are suggested to govern all parent-time arrangements

90 between parents. [~~These advisory guidelines include:~~]

91 (1) Parent-time schedules mutually agreed upon by both parents are preferable to a  
92 court-imposed solution[;].

93 (2) The parent-time schedule shall be utilized to maximize the continuity and stability  
94 of the child's life[;].

95 (3) Special consideration shall be given by each parent to make the child available to  
96 attend family functions including funerals, weddings, family reunions, religious holidays,  
97 important ceremonies, and other significant events in the life of the child or in the life of either  
98 parent which may inadvertently conflict with the parent-time schedule[;].

99 (4) The responsibility for the pick up, delivery, and return of the child shall be  
100 determined by the court when the parent-time order is entered, and may be changed at any time  
101 a subsequent modification is made to the parent-time order[;].

102 (5) If the noncustodial parent will be providing transportation, the custodial parent  
103 shall have the child ready for parent-time at the time the child is to be picked up and shall be  
104 present at the custodial home or shall make reasonable alternate arrangements to receive the  
105 child at the time the child is returned[;].

106 (6) If the custodial parent will be transporting the child, the noncustodial parent shall  
107 be at the appointed place at the time the noncustodial parent is to receive the child, and have  
108 the child ready to be picked up at the appointed time and place, or have made reasonable  
109 alternate arrangements for the custodial parent to pick up the child[;].

110 (7) Regular school hours may not be interrupted for a school-age child for the exercise  
111 of parent-time by either parent[;].

112 (8) The court may make alterations in the parent-time schedule to reasonably  
113 accommodate the work schedule of both parents and may increase the parent-time allowed to  
114 the noncustodial parent but shall not diminish the standardized parent-time provided in  
115 Sections 30-3-35 and 30-3-35.5[;].

116 (9) The court may make alterations in the parent-time schedule to reasonably  
117 accommodate the distance between the parties and the expense of exercising parent-time[;].

118 (10) Neither parent-time nor child support is to be withheld due to either parent's  
119 failure to comply with a court-ordered parent-time schedule[;].

120 (11) The custodial parent shall notify the noncustodial parent within 24 hours of

121 receiving notice of all significant school, social, sports, and community functions in which the  
 122 child is participating or being honored, and the noncustodial parent shall be entitled to attend  
 123 and participate fully[;].

124 (12) The noncustodial parent shall have access directly to all school reports including  
 125 preschool and daycare reports and medical records and shall be notified immediately by the  
 126 custodial parent in the event of a medical emergency[;].

127 (13) Each parent shall provide the other with his current address and telephone  
 128 number, email address, and other virtual parent-time access information within 24 hours of any  
 129 change[;].

130 (14) Each parent shall permit and encourage, during reasonable hours, reasonable and  
 131 uncensored communications with the child, in the form of mail privileges and virtual  
 132 parent-time if the equipment is reasonably available, provided that if the parties cannot agree  
 133 on whether the equipment is reasonably available, the court shall decide whether the equipment  
 134 for virtual parent-time is reasonably available, taking into consideration:

135 (a) the best interests of the child;

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

137 (c) any other factors the court considers material[;].

138 (15) Parental care shall be presumed to be better care for the child than surrogate care  
 139 and the court shall encourage the parties to cooperate in allowing the noncustodial parent, if  
 140 willing and able to transport the children, to provide the child care[;]. **Ŝ→ Child care arrangements**  
 140a **existing during the marriage are preferred as are child care arrangements with nominal or no**  
 140b **charge.** **←Ŝ**

141 (16) Each parent shall provide all surrogate care providers with the name, current  
 142 address, and telephone number of the other parent and shall provide the noncustodial parent  
 143 with the name, current address, and telephone number of all surrogate care providers unless the  
 144 court for good cause orders otherwise[; ~~and~~].

145 (17) Each parent shall be entitled to an equal division of major religious holidays  
 146 celebrated by the parents, and the parent who celebrates a religious holiday that the other parent  
 147 does not celebrate shall have the right to be together with the child on the religious holiday.

148 (18) If the child is on a different parent-time schedule than a sibling, based on Sections  
 149 30-3-35 and 30-3-35.5, the parents should consider if an upward deviation for parent-time with  
 150 all the minor children so that parent-time is uniform between school aged and nonschool aged  
 151 children, is appropriate.

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

153 **30-3-34. Best interests -- Rebuttable presumption.**

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

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

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

164 (b) the distance between the residency of the child and the noncustodial parent;

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

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

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

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

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

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

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

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

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

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

- 183 (m) the parent-time schedule of siblings;
- 184 (n) the lack of reasonable alternatives to the needs of a nursing child; and
- 185 (o) any other criteria the court determines relevant to the best interests of the child.
- 186 (3) The court shall enter the reasons underlying its order for parent-time that:
- 187 (a) incorporates a parent-time schedule provided in Section 30-3-35 or 30-3-35.5; or
- 188 (b) provides more or less parent-time than a parent-time schedule provided in Section
- 189 30-3-35 or 30-3-35.5.
- 190 (4) Once the parent-time schedule has been established, the parties may not alter the
- 191 schedule except by mutual consent of the parties or a court order.

192 Section 4. Section **30-3-35** is amended to read:

193 **30-3-35. Minimum schedule for parent-time for children 5 to 18 years of age.**

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

195 (2) If the parties do not agree to a parent-time schedule, the following schedule shall be

196 considered the minimum parent-time to which the noncustodial parent and the child shall be

197 entitled[?].

198 (a) (i) [~~one~~] (A) One weekday evening to be specified by the noncustodial parent or

199 the court, or Wednesday evening if not specified, from 5:30 p.m. until 8:30 p.m.; [~~or~~]

200 [~~(ii)~~] (B) at the election of the noncustodial parent, one weekday from the time the

201 child's school is regularly dismissed until 8:30 p.m., unless the court directs the application of

202 Subsection (2)(a)(i); or

203 (C) at the election of the noncustodial parent, if school is not in session, one weekday

204 from approximately 9 a.m., accommodating the custodial parent's work schedule, until 8:30

205 p.m. if the noncustodial parent is available to be with the child, unless the court directs the

206 application of Subsection (2)(a)(i)(A) or (2)(a)(i)(B).

207 (ii) Once the election of the weekday for the weekday evening parent-time is made, it

208 may not be changed except by mutual written agreement or court order.

209 (b) (i) [~~alternating~~] (A) Alternating weekends beginning on the first weekend after the

210 entry of the decree from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year; [~~or~~]

211 [~~(ii)~~] (B) at the election of the noncustodial parent, from the time the child's school is

212 regularly dismissed on Friday until 7 p.m. on Sunday, unless the court directs the application of

213 Subsection (2)(b)(i)(A); or

214 ~~(c) holidays]~~

215 (C) at the election of the noncustodial parent, if school is not in session, on Friday from  
 216 approximately 9 a.m., accommodating the custodial parent's work schedule, until 7 p.m. on  
 217 Sunday, if the noncustodial parent is available to be with the child unless the court directs the  
 218 application of Subsection (2)(b)(i)(A) or (2)(b)(i)(B).

219 (ii) A step-parent, grandparent, or other responsible adult designated by the  
 220 noncustodial parent, may pick up the child if the ~~H~~→ [school] custodial parent ←~~H~~ is aware of the  
 220a identity of the

221 individual, and the parent will be with the child by ~~S~~→ [6] 7 ←~~S~~ p.m.

222 (iii) Elections should be made by the noncustodial parent at the time of entry of the  
 223 divorce decree or court order ~~S~~→ , and may be changed by mutual agreement [or] , court order , or  
 223a by the noncustodial parent in the event of a change in the child's schedule←~~S~~ .

224 (iv) Weekends include any "snow" days, teacher development days, or other days when  
 225 school is not scheduled and which are contiguous to the weekend period.

226 (c) Holidays include any "snow" days, teacher development days, or other days when  
 227 school is not scheduled, contiguous to the holiday period, and take precedence over the  
 228 weekend parent-time~~[-and changes]~~. Changes may not be made to the regular rotation of the  
 229 alternating weekend parent-time schedule; however, birthdays take precedence over holidays  
 230 and extended parent-time, except Mother's Day and Father's Day; birthdays do not take  
 231 precedence over uninterrupted parent-time if the parent exercising uninterrupted time takes the  
 232 child away from that parent's residence for the uninterrupted extended parent-time.

233 (d) If a holiday falls on a regularly scheduled school day, the noncustodial parent shall  
 234 be responsible for the child's attendance at school for that school day[;].

235 (e) (i) [~~if~~] If a holiday falls on a weekend or on a Friday or Monday and the total  
 236 holiday period extends beyond that time so that the child is free from school and the parent is  
 237 free from work, the noncustodial parent shall be entitled to this lengthier holiday period~~[-or]~~.

238 (ii) [~~at~~] (A) At the election of the noncustodial parent, parent-time over a scheduled  
 239 holiday weekend may begin from the time the child's school is regularly dismissed at the  
 240 beginning of the holiday weekend until 7 p.m. on the last day of the holiday weekend; or

241 (B) at the election of the noncustodial parent, if school is not in session, parent-time  
 242 over a scheduled holiday weekend may begin at approximately 9 a.m., accommodating the  
 243 custodial parent's work schedule, the first day of the holiday weekend until 7 p.m. on the last  
 244 day of the holiday weekend, if the noncustodial parent is available to be with the child unless



245 the court directs the application of Subsection (2)(e)(ii)(A).

246 (iii) A step-parent, grandparent, or other responsible individual designated by the  
 247 noncustodial parent, may pick up the child if the ~~H~~→ [school] **custodial parent** ←~~H~~ is aware of the  
 247a identity of the  
 248 individual, and the parent will be with the child by ~~S~~→ [6] 7 ←~~S~~ p.m.

249 (iv) Elections should be made by the noncustodial parent at the time of the divorce  
 250 decree or court order ~~S~~→ , and may be changed by mutual agreement [or] , court order , or  
 250a by the noncustodial parent in the event of a change in the child's schedule ←~~S~~ .

251 (f) In years ending in an odd number, the noncustodial parent is entitled to the  
 252 following holidays:

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

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

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

261 [~~(iv) Memorial Day beginning 6 p.m. on Friday until Monday at 7 p.m., unless the~~  
 262 ~~holiday extends for a lengthier period of time to which the noncustodial parent is completely~~  
 263 ~~entitled;~~]

264 [~~(v) July 24th beginning 6 p.m. on the day before the holiday until 11 p.m. on the~~  
 265 ~~holiday;~~]

266 [~~(vi) Halloween on October 31 or the day Halloween is traditionally celebrated in the~~  
 267 ~~local community from after school until 9 p.m. if on a school day, or from 4 p.m. until 9 p.m.;~~]

268 [~~(vii) Veteran's Day holiday beginning 6 p.m. the day before the holiday until 7 p.m. on~~  
 269 ~~the holiday; and]~~

270 (iv) July 4 beginning 6 p.m. the day before the holiday until 11 p.m. or no later than 6  
 271 p.m. on the day following the holiday, at the option of the parent exercising the holiday;

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

273a **~~H~~→ (vi) the fall school break, if applicable, commonly known as U.E.A. weekend beginning**  
 273b **at 6 p.m. on Wednesday until Sunday at 7 p.m. unless the holiday extends for a lengthier**  
 273c **period of time to which the noncustodial parent is completely entitled;**

273d **(vii) Veteran's Day holiday beginning 6 p.m. the day before the holiday until 7 p.m. on**  
 273e **the holiday; and**

274 [~~(vi) Thanksgiving beginning Wednesday at 7 p.m. until Sunday at 7 p.m.; and]~~

275 [F] (viii) the first [F] [~~(vii) the second~~] ←~~H~~ portion of the Christmas school vacation  
 275a **~~H~~→ [F] as defined in**

276 **Subsection 30-3-32(3)(b) [~~plus~~] including Christmas Eve and Christmas Day until 1**  
 276a **p.m. [f] [~~beginning at 1~~**  
 277 **~~p.m.~~ ←H on the day halfway through the holiday, if there are an odd number of days for the holiday**  
 278 **~~period, or H→ [at] until ←H 7 p.m. if there are an even number of days for the holiday period, so~~**  
 278a **long as the**  
 279 **entire holiday is equally divided[;].**  
 280 (g) In years ending in an even number, the noncustodial parent is entitled to the  
 281 following holidays:  
 282 (i) child's birthday on actual birthdate beginning at 3 p.m. until 9 p.m.; at the discretion  
 283 of the noncustodial parent, he may take other siblings along for the birthday;  
 284 (ii) [~~Washington and Lincoln~~] **President's Day** beginning at 6 p.m. on Friday until 7  
 285 p.m. on Monday unless the holiday extends for a lengthier period of time to which the  
 286 noncustodial parent is completely entitled;  
 287 [(iii) ~~July 4th beginning at 6 p.m. the day before the holiday until 11 p.m. on the~~  
 288 **holiday;]**  
 289 [(iv) ~~Labor Day beginning at 6 p.m. on Friday until Monday at 7 p.m. unless the~~  
 290 **holiday extends for a lengthier period of time to which the noncustodial parent is completely**  
 291 **entitled;]**  
 292 (iii) **Memorial Day beginning at 6 p.m. on Friday until Monday at 7 p.m., unless the**  
 293 **holiday extends for a lengthier period of time to which the noncustodial parent is completely**  
 294 **entitled;**  
 295 (iv) **July 24 beginning at 6 p.m. on the day before the holiday until 11 p.m. or no later**  
 296 **than 6 p.m. on the day following the holiday, at the option of the parent exercising the holiday;**  
 296a **H→ (v) Columbus Day beginning at 6 p.m. the day before the holiday until 7 p.m. on the**  
 296b **holiday;**  
 297 [(v) (vi) ←H **Halloween on October 31 or the day Halloween is traditionally**  
 297a **celebrated in the**  
 298 **local community from after school until 9 p.m. if on a school day, or from 4 p.m. until 9 p.m.;**  
 299 [(v) **H→ [(vi) the fall school break, if applicable, commonly known as U.E.A. weekend**  
 300 **beginning at 6 p.m. on Wednesday until Sunday at 7 p.m. unless the holiday extends for a**  
 301 **lengthier period of time to which the noncustodial parent is completely entitled; and] ←H**  
 302 [(vi) ~~Columbus Day beginning at 6 p.m. the day before the holiday until 7 p.m. on the~~  
 303 **holiday;]**  
 304 **H→ [f] (vii) Thanksgiving holiday beginning Wednesday at 7 p.m. until Sunday**  
 304a **at 7 p.m.;**  
 305 **and [f]**  
 306 [f] (viii) **the second [f] [~~vii) the first~~] ←H portion of the Christmas school vacation[;**  
 306a **including**

307 New Year's Day,] as defined in Subsection 30-3-32(3)(b) [~~plus Christmas day beginning at 1~~  
 308 ~~p.m. until 9 p.m.~~], ~~H→~~ **[including Christmas Eve and Christmas day until]** **beginning** ~~←H~~ **1 p.m. on**  
 308a **the day halfway**  
 309 **through the holiday, if there are an odd number of days for the holiday period, or** ~~H→~~ **[until]**  
 309a **at** ~~←H~~ **7 p.m. if**  
 310 **there are an even number of days for the holiday period, so long as the entire Christmas holiday**  
 311 **is equally divided[;].**

312 (h) The custodial parent is entitled to the odd year holidays in even years and the even  
 313 year holidays in odd years[;].

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

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

318 (k) Extended parent-time with the noncustodial parent may be:

319 (i) up to four weeks consecutive at the option of the noncustodial parent, including  
 320 weekends normally exercised by the noncustodial parent, but not holidays;

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

322 (iii) the remaining two weeks shall be subject to parent-time for the custodial parent  
 323 [~~consistent with these guidelines;~~] for weekday parent-time but not weekends, except for a  
 324 holiday to be exercised by the other parent.

325 (l) The custodial parent shall have an identical two-week period of uninterrupted time  
 326 during the children's summer vacation from school for purposes of vacation[;].

327 [~~(m) If the child is enrolled in year-round school, the noncustodial parent's extended~~  
 328 ~~parent-time shall be 1/2 of the vacation time for year-round school breaks, provided the~~  
 329 ~~custodial parent has holiday and phone visits;]~~

330 [~~(n)~~] (m) Both parents shall provide notification of extended parent-time or vacation  
 331 weeks with the child [~~shall be provided~~] at least 30 days in advance to the other parent[; ~~and~~]  
 332 and if notification is not provided timely the complying parent may determine the schedule for  
 333 extended parent-time for the noncomplying parent.

334 [~~(o) Telephone contact and other virtual~~]

335 (n) Telephone contact shall be at reasonable hours and for a reasonable duration.

336 (o) Virtual parent-time, if the equipment is reasonably available ~~S→~~ **and the parents reside**  
 336a **at least 100 miles apart** ~~←S~~ , shall be at reasonable  
 337 hours and for reasonable duration, provided that if the parties cannot agree on whether the

338 equipment is reasonably available, the court shall decide whether the equipment for virtual  
339 parent-time is reasonably available, taking into consideration:

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

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

346 (4) Notwithstanding Subsection (2)(e)(i), the Halloween holiday may not be extended  
347 beyond the hours designated in Subsection (2)(~~f~~)(g)(vi).

348 Section 5. Section **30-3-35.5** is amended to read:

349 **30-3-35.5. Minimum schedule for parent-time for children under five years of**  
350 **age.**

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

352 (2) All holidays in this section refer to the same holidays referenced in Section  
353 30-3-35.

354 [~~2~~] (3) If the parties do not agree to a parent-time schedule, the following schedule  
355 shall be considered the minimum parent-time to which the noncustodial parent and the child  
356 shall be entitled[;].

357 (a) For children under five months of age:

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

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

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

363 (ii) two hours on holidays and in the years specified in Subsections 30-3-35(2)(f)  
364 through (i) preferably in the custodial home, the established child care setting, or other  
365 environment familiar to the child[;].

366 (b) For children five months of age or older, but younger than [~~ten~~] nine months of age:

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

- 369 (A) divided into three parent-time periods; and  
370 (B) in the custodial home, established child care setting, or other environment familiar  
371 to the child; and  
372 (ii) two hours on the holidays and in the years specified in Subsections 30-3-35(2)(f)  
373 through (i) preferably in the custodial home, the established child care setting, or other  
374 environment familiar to the child[?].
- 375 (c) For children nine months of age or older, but younger than 12 months of age:  
376 (i) one eight hour visit per week to be specified by the noncustodial parent or court;  
377 (ii) one three hour visit per week to be specified by the noncustodial parent or court;  
378 (iii) eight hours on the holidays and in the years specified in Subsections 30-3-35(2)(f)  
379 through (i); and  
380 (iv) brief telephone contact and other virtual parent-time, if the equipment is  
381 reasonably available, with the noncustodial parent at least two times per week, provided that if  
382 the parties cannot agree on whether the equipment is reasonably available, the court shall  
383 decide whether the equipment for virtual parent-time is reasonably available, taking into  
384 consideration:
- 385 (A) the best interests of the child;  
386 (B) each parent's ability to handle any additional expenses for virtual parent-time; and  
387 (C) any other factors the court considers material[?].
- 388 (d) For children 12 months of age or older, but younger than 18 months of age:  
389 (i) one eight-hour visit per alternating weekend to be specified by the noncustodial  
390 parent or court;  
391 (ii) on opposite weekends from Subsection (2)(d)(i), from 6 p.m. on Friday until noon  
392 on Saturday;  
393 (iii) one three-hour visit per week to be specified by the noncustodial parent or court;  
394 (iv) eight hours on the holidays and in the years specified in Subsections 30-3-35(2)(f)  
395 through (i); and  
396 (v) brief telephone contact and other virtual parent-time, if the equipment is reasonably  
397 available, with the noncustodial parent at least two times per week, provided that if the parties  
398 cannot agree on whether the equipment is reasonably available, the court shall decide whether  
399 the equipment for virtual parent-time is reasonably available, taking into consideration:

- 400 (A) the best interests of the child;
- 401 (B) each parent's ability to handle any additional expenses for virtual parent-time; and
- 402 (C) any other factors the court considers material[;].
- 403 (e) For children 18 months of age or older, but younger than three years of age:
- 404 (i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the
- 405 noncustodial parent or court; however, if the child is being cared for during the day outside his
- 406 regular place of residence, the noncustodial parent may, with advance notice to the custodial
- 407 parent, pick up the child from the caregiver at an earlier time and return him to the custodial
- 408 parent by 8:30 p.m.;
- 409 (ii) alternative weekends beginning on the first weekend after the entry of the decree
- 410 from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;
- 411 (iii) parent-time on holidays as specified in Subsections 30-3-35(2)(c) through (i);
- 412 (iv) extended parent-time may be:
- 413 (A) two one-week periods, separated by at least four weeks, at the option of the
- 414 noncustodial parent;
- 415 (B) one week shall be uninterrupted time for the noncustodial parent;
- 416 (C) the remaining week shall be subject to parent-time for the custodial parent
- 417 consistent with these guidelines; and
- 418 (D) the custodial parent shall have an identical one-week period of uninterrupted time
- 419 for vacation; and
- 420 (v) brief telephone contact and virtual parent-time, if the equipment is reasonably
- 421 available, with the noncustodial parent at least two times per week, provided that if the parties
- 422 cannot agree on whether the equipment is reasonably available, the court shall decide whether
- 423 the equipment for virtual parent-time is reasonably available, taking into consideration:
- 424 (A) the best interests of the child;
- 425 (B) each parent's ability to handle any additional expenses for virtual parent-time; and
- 426 (C) any other factors the court considers material[;and].
- 427 (f) For children three years of age or older, but younger than five years of age:
- 428 (i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the
- 429 noncustodial parent or court; however, if the child is being cared for during the day outside his
- 430 regular place of residence, the noncustodial parent may, with advance notice to the custodial

431 parent, pick up the child from the caregiver at an earlier time and return him to the custodial  
 432 parent by 8:30 p.m.;

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

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

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

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

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

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

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

444 (v) brief telephone contact and virtual parent-time, if the equipment is reasonably  
 445 available, with the noncustodial parent at least two times per week, provided that if the parties  
 446 cannot agree on whether the equipment is reasonably available, the court shall decide whether  
 447 the equipment for virtual parent-time is reasonably available, taking into consideration:

448 (A) the best interests of the child;

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

450 (C) any other factors the court considers material.

451 ~~[(3)]~~ (4) A parent shall notify the other parent at least 30 days in advance of extended  
 452 parent-time or vacation weeks.

453 ~~[(4)]~~ (5) Virtual parent-time shall be at reasonable hours and for reasonable duration.

454 Section 6. Section 30-3-37 is amended to read:

455 **30-3-37. Relocation.**

456 (1) ~~Ĥ→~~ **For purposes of this section, "relocation" means moving** ~~[When either parent~~  
 456a **decides to move]** ~~←Ĥ~~ from the state ~~[of Utah]~~ or 150 miles or more

457 from the residence specified in the court's decree ~~Ĥ→~~ . ~~[, that]~~

457a (2) **The relocating** ~~←Ĥ~~ parent shall provide ~~Ĥ→~~ , ~~←Ĥ~~ if possible ~~Ĥ→~~ , ~~←Ĥ~~ 60 days  
 458 advance written notice of the intended relocation to the other parent. The written notice of  
 459 relocation shall contain statements affirming the following:

460 (a) the parent-time provisions in Subsection ~~Ĥ→~~ [f] (5) [f] ~~[(4)]~~ ~~←Ĥ~~ or a  
 460a schedule approved by both

461 parties will be followed; and

462 (b) neither parent will interfere with the other's parental rights pursuant to court  
 463 ordered parent-time arrangements, or the schedule approved by both parties.

464 ~~Ĥ~~→ [(2)] (3) ←~~Ĥ~~ The court may, upon motion of any party or upon the court's own motion,  
 464a schedule  
 465 a hearing with notice to review the notice of relocation and parent-time schedule as provided in  
 466 Section 30-3-35 and make appropriate orders regarding the parent-time and costs for  
 467 parent-time transportation.

468 ~~Ĥ~~→ [(3)] (4) ←~~Ĥ~~ In determining the parent-time schedule and allocating the transportation  
 468a costs, the  
 469 court shall consider:

- 470 (a) the reason for the parent's relocation;
- 471 (b) the additional costs or difficulty to both parents in exercising parent-time;
- 472 (c) the economic resources of both parents; and
- 473 (d) other factors the court considers necessary and relevant.

474 [~~(4)~~ Upon the motion of any party, the court may order the parent intending to move to  
 475 pay the costs of transportation for:]

476 [~~(a)~~ at least one visit per year with the other parent; and]

477 [~~(b)~~ any number of additional visits as determined equitable by the court.]

478 ~~Ĥ~~→ [f] (5) [f] [~~(4)~~] ←~~Ĥ~~ Unless otherwise ordered by the court, upon the relocation, as  
 478a defined in

479 Subsection (1), of one of the parties the following schedule shall be the minimum requirements  
 480 for parent-time with a school-age child:

481 (a) in years ending in an odd number, the child shall spend the following holidays with  
 482 the noncustodial parent:

- 483 (i) Thanksgiving holiday beginning Wednesday until Sunday; and
- 484 (ii) [~~the fall school~~] Spring break, if applicable, beginning the last day of school before  
 485 the holiday until the day before school resumes;

486 (b) in years ending in an even number, the child shall spend the following holidays  
 487 with the noncustodial parent:

- 488 (i) the entire winter school break period; and
- 489 (ii) [~~Spring~~] the Fall school break beginning the last day of school before the holiday  
 490 until the day before school resumes; [~~and~~]

491 (c) extended parent-time equal to 1/2 of the summer or off-track time for consecutive  
 492 weeks. The children should be returned to the custodial home no later than seven days before



493 school begins; however, this week shall be counted when determining the amount of  
 494 parent-time to be divided between the parents for the summer or off-track period[-]; and  
 495 (d) at the option and expense of the noncustodial parent, one weekend per month.

495a **Ĥ→ (6) In the event finances and distance preclude the exercise of minimum parent-time**  
 495b **for the noncustodial parent during the school year, the court should consider awarding more**  
 495c **time for the noncustodial parent during the summer time if it is in the best interests of the**  
 495d **children.**

496 ~~[(6)] (7) ←Ĥ~~ Upon the motion of any party, the court may order uninterrupted  
 496a parent-time with  
 497 the noncustodial parent for a minimum of 30 days during extended parent-time, unless the  
 498 court finds it is not in the best interests of the child. If the court orders uninterrupted  
 499 parent-time during a period not covered by this section, it shall specify in its order which parent  
 500 is responsible for the child's travel expenses.

501 **Ĥ→ [(7)] (8) ←Ĥ** Unless otherwise ordered by the court the relocating party shall be  
 501a responsible for  
 502 all the child's travel expenses relating to Subsections **Ĥ→ [f] (5) [j] [(4)] ←Ĥ** (a) and (b) and  
 502a 1/2 of the child's  
 503 travel expenses relating to Subsection **Ĥ→ [f] (5) [j] [(4)] ←Ĥ** (c), provided the noncustodial  
 503a [party] parent is  
 504 current on all support obligations. If the noncustodial [party] parent has been found in  
 505 contempt for not being current on all support obligations, ~~he~~ the noncustodial parent shall be  
 506 responsible for all of the child's travel expenses under Subsection **Ĥ→ [f] (5) [j] [(4)] ←Ĥ** ,  
 506a unless the court  
 507 rules otherwise. Reimbursement by either responsible party to the other for the child's travel  
 508 expenses shall be made within 30 days of receipt of documents detailing those expenses.

509 **Ĥ→ [(8)] (9) ←Ĥ** The court may apply this provision to any preexisting decree of divorce.

510 **Ĥ→ [(9)] (10) ←Ĥ** Any action under this section may be set for an expedited hearing.

511 **Ĥ→ [(10)] (11) ←Ĥ** A parent who fails to comply with the notice of relocation in Subsection  
 511a **Ĥ→ [(11)] (2) ←Ĥ** shall  
 512 be in contempt of the court's order.

**Legislative Review Note**  
 as of 11-19-07 10:11 AM

**Office of Legislative Research and General Counsel**

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**H.B. 71 - Parent-Time Amendments**

**Fiscal Note**

2008 General Session  
State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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