

Senator Gregory S. Bell proposes the following substitute bill:

**EXPEDITED PARENT-TIME ENFORCEMENT**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Julie Fisher**

Senate Sponsor: Gregory S. Bell

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**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:**

This bill coordinates with S.B. 111, Revisor's Statute.

**Utah Code Sections Affected:**

AMENDS:

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

**63-63a-8**, as last amended by Laws of Utah 2008, Chapter 3

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*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.**



26 (1) There is established an Expedited Parent-time Enforcement [~~Pilot~~] Program [~~in the~~  
27 ~~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.  
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 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.

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 - Child  
149 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 78A-6-321, 78A-6-902, 78B-3-102, and 78A-2-227; the training of guardian ad litem and  
152 volunteers as provided in Section 78A-6-902; and termination of parental rights as provided in  
153 Sections 78A-6-117, 78A-6-118, and 78A-6-1103, and Title 78A, Chapter 6, Part 5,  
154 Termination of Parental Rights Act. This account may not be used to supplant funding for the  
155 guardian ad litem program in the juvenile court as provided in Section 78A-6-902; 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 \$4 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.

168 **Section 3. Coordinating H.B. 22 with S.B. 111.**

169 If this H.B. 22 and S.B. 111, Revisor's Statute, both pass, it is the intent of the  
170 Legislature that Section 30-3-38 not be repealed and the amendments in this H.B. 22 take  
171 effect.

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**H.B. 22 1st Sub. (Buff) - Expedited Parent-time Enforcement**

**Fiscal Note**

2008 General Session  
State of Utah

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**State Impact**

Enactment of this bill will require \$275,500 in General Fund and federal matching funds of \$100,000 annually. Funding will be used to expand Expedited Parent-time Enforcement statewide.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
General Fund	\$0	\$275,500	\$275,500	\$0	\$0	\$0
Federal Funds	\$0	\$100,000	\$100,000	\$0	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$375,500</b>	<b>\$375,500</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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

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

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