

**PARENT-TIME HOLIDAY AND  
NOTIFICATION AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lorie D. Fowlke**

Senate Sponsor: Lyle W. Hillyard

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**LONG TITLE**

**General Description:**

This bill makes technical amendments to references to the parent-time statute and specifies when notice must occur for extended parent-time for a school-age child.

**Highlighted Provisions:**

This bill:

- ▶ adds in references to Mother's Day for parent-time for children under five years of age; and
- ▶ requires that notice of extended parent-time or vacation weeks with a school-age child be provided to the other parent at least 30 days prior to the end of the child's school year.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**30-3-35**, as last amended by Laws of Utah 2008, Chapter 146

**30-3-35.5**, as last amended by Laws of Utah 2008, Chapter 146



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

29 Section 1. Section **30-3-35** is amended to read:

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

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

32 (2) If the parties do not agree to a parent-time schedule, the following schedule shall be  
33 considered the minimum parent-time to which the noncustodial parent and the child shall be  
34 entitled.

35 (a) (i) (A) One weekday evening to be specified by the noncustodial parent or the court,  
36 or Wednesday evening if not specified, from 5:30 p.m. until 8:30 p.m.;

37 (B) at the election of the noncustodial parent, one weekday from the time the child's  
38 school is regularly dismissed until 8:30 p.m., unless the court directs the application of  
39 Subsection (2)(a)(i); or

40 (C) at the election of the noncustodial parent, if school is not in session, one weekday  
41 from approximately 9 a.m., accommodating the custodial parent's work schedule, until 8:30  
42 p.m. if the noncustodial parent is available to be with the child, unless the court directs the  
43 application of Subsection (2)(a)(i)(A) or (2)(a)(i)(B).

44 (ii) Once the election of the weekday for the weekday evening parent-time is made, it  
45 may not be changed except by mutual written agreement or court order.

46 (b) (i) (A) Alternating weekends beginning on the first weekend after the entry of the  
47 decree from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;

48 (B) at the election of the noncustodial parent, from the time the child's school is  
49 regularly dismissed on Friday until 7 p.m. on Sunday, unless the court directs the application of  
50 Subsection (2)(b)(i)(A); or

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

55 (ii) A step-parent, grandparent, or other responsible adult designated by the  
56 noncustodial parent, may pick up the child if the custodial parent is aware of the identity of the  
57 individual, and the parent will be with the child by 7 p.m.

58 (iii) Elections should be made by the noncustodial parent at the time of entry of the

59 divorce decree or court order, and may be changed by mutual agreement, court order, or by the  
60 noncustodial parent in the event of a change in the child's schedule.

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

63 (c) Holidays include any "snow" days, teacher development days, or other days when  
64 school is not scheduled, contiguous to the holiday period, and take precedence over the  
65 weekend parent-time. Changes may not be made to the regular rotation of the alternating  
66 weekend parent-time schedule; however, birthdays take precedence over holidays and extended  
67 parent-time, except Mother's Day and Father's Day; birthdays do not take precedence over  
68 uninterrupted parent-time if the parent exercising uninterrupted time takes the child away from  
69 that parent's residence for the uninterrupted extended parent-time.

70 (d) If a holiday falls on a regularly scheduled school day, the noncustodial parent shall  
71 be responsible for the child's attendance at school for that school day.

72 (e) (i) If a holiday falls on a weekend or on a Friday or Monday and the total holiday  
73 period extends beyond that time so that the child is free from school and the parent is free from  
74 work, the noncustodial parent shall be entitled to this lengthier holiday period.

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

78 (B) at the election of the noncustodial parent, if school is not in session, parent-time  
79 over a scheduled holiday weekend may begin at approximately 9 a.m., accommodating the  
80 custodial parent's work schedule, the first day of the holiday weekend until 7 p.m. on the last  
81 day of the holiday weekend, if the noncustodial parent is available to be with the child unless  
82 the court directs the application of Subsection (2)(e)(ii)(A).

83 (iii) A step-parent, grandparent, or other responsible individual designated by the  
84 noncustodial parent, may pick up the child if the custodial parent is aware of the identity of the  
85 individual, and the parent will be with the child by 7 p.m.

86 (iv) Elections should be made by the noncustodial parent at the time of the divorce  
87 decree or court order, and may be changed by mutual agreement, court order, or by the  
88 noncustodial parent in the event of a change in the child's schedule.

89 (f) In years ending in an odd number, the noncustodial parent is entitled to the

90 following holidays:

91 (i) child's birthday on the day before or after the actual birth date beginning at 3 p.m.  
92 until 9 p.m.; at the discretion of the noncustodial parent, he may take other siblings along for  
93 the birthday;

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

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

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

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

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

106 (vii) Veteran's Day holiday beginning 6 p.m. the day before the holiday until 7 p.m. on  
107 the holiday; and

108 (viii) the first portion of the Christmas school vacation as defined in Subsection  
109 30-3-32(3)(b) including Christmas Eve and Christmas Day until 1 p.m. on the day halfway  
110 through the holiday, if there are an odd number of days for the holiday period, or until 7 p.m. if  
111 there are an even number of days for the holiday period, so long as the entire holiday is equally  
112 divided.

113 (g) In years ending in an even number, the noncustodial parent is entitled to the  
114 following holidays:

115 (i) child's birthday on actual birth date beginning at 3 p.m. until 9 p.m.; at the  
116 discretion of the noncustodial parent, he may take other siblings along for the birthday;

117 (ii) President's Day beginning at 6 p.m. on Friday until 7 p.m. on Monday unless the  
118 holiday extends for a lengthier period of time to which the noncustodial parent is completely  
119 entitled;

120 (iii) Memorial Day beginning at 6 p.m. on Friday until Monday at 7 p.m., unless the

121 holiday extends for a lengthier period of time to which the noncustodial parent is completely  
122 entitled;

123 (iv) July 24 beginning at 6 p.m. on the day before the holiday until 11 p.m. or no later  
124 than 6 p.m. on the day following the holiday, at the option of the parent exercising the holiday;

125 (v) Columbus Day beginning at 6 p.m. the day before the holiday until 7 p.m. on the  
126 holiday;

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

129 (vii) Thanksgiving holiday beginning Wednesday at 7 p.m. until Sunday at 7 p.m.; and

130 (viii) the second portion of the Christmas school vacation as defined in Subsection  
131 30-3-32(3)(b), beginning 1 p.m. on the day halfway through the holiday, if there are an odd  
132 number of days for the holiday period, or at 7 p.m. if there are an even number of days for the  
133 holiday period, so long as the entire Christmas holiday is equally divided.

134 (h) The custodial parent is entitled to the odd year holidays in even years and the even  
135 year holidays in odd years.

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

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

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

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

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

144 (iii) the remaining two weeks shall be subject to parent-time for the custodial parent for  
145 weekday parent-time but not weekends, except for a holiday to be exercised by the other  
146 parent.

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

149 (m) Both parents shall provide notification of extended parent-time or vacation weeks  
150 with the child at least 30 days [~~in advance~~] prior to the end of the child's school year to the  
151 other parent and if notification is not provided timely the complying parent may determine the

152 schedule for extended parent-time for the noncomplying parent.

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

154 (o) Virtual parent-time, if the equipment is reasonably available and the parents reside  
155 at least 100 miles apart, shall be at reasonable hours and for reasonable duration, provided that  
156 if the parties cannot agree on whether the equipment is reasonably available, the court shall  
157 decide whether the equipment for virtual parent-time is reasonably available, taking into  
158 consideration:

159 (i) the best interests of the child;

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

161 (iii) any other factors the court considers material.

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

165 (4) Notwithstanding Subsection (2)(e)(i), the Halloween holiday may not be extended  
166 beyond the hours designated in Subsection (2)(g)(vi).

167 Section 2. Section **30-3-35.5** is amended to read:

168 **30-3-35.5. Minimum schedule for parent-time for children under five years of**  
169 **age.**

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

171 (2) All holidays in this section refer to the same holidays referenced in Section  
172 30-3-35.

173 (3) If the parties do not agree to a parent-time schedule, the following schedule shall be  
174 considered the minimum parent-time to which the noncustodial parent and the child shall be  
175 entitled.

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

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

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

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

182 (ii) two hours on holidays and in the years specified in Subsections 30-3-35(2)(f)

183 through ~~(i)~~ (j) preferably in the custodial home, the established child care setting, or other  
184 environment familiar to the child.

185 (b) For children five months of age or older, but younger than nine months of age:

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

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

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

191 (ii) two hours on the holidays and in the years specified in Subsections 30-3-35(2)(f)  
192 through ~~(i)~~ (j) preferably in the custodial home, the established child care setting, or other  
193 environment familiar to the child.

194 (c) For children nine months of age or older, but younger than 12 months of age:

195 (i) one eight hour visit per week to be specified by the noncustodial parent or court;

196 (ii) one three hour visit per week to be specified by the noncustodial parent or court;

197 (iii) eight hours on the holidays and in the years specified in Subsections 30-3-35(2)(f)  
198 through ~~(i)~~ (j); and

199 (iv) brief telephone contact and other virtual parent-time, if the equipment is  
200 reasonably available, with the noncustodial parent at least two times per week, provided that if  
201 the parties cannot agree on whether the equipment is reasonably available, the court shall  
202 decide whether the equipment for virtual parent-time is reasonably available, taking into  
203 consideration:

204 (A) the best interests of the child;

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

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

207 (d) For children 12 months of age or older, but younger than 18 months of age:

208 (i) one eight-hour visit per alternating weekend to be specified by the noncustodial  
209 parent or court;

210 (ii) on opposite weekends from Subsection ~~(2)~~ (3)(d)(i), from 6 p.m. on Friday until  
211 noon on Saturday;

212 (iii) one three-hour visit per week to be specified by the noncustodial parent or court;

213 (iv) eight hours on the holidays and in the years specified in Subsections 30-3-35(2)(f)

214 through ~~(i)~~ (j); and

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

219 (A) the best interests of the child;

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

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

222 (e) For children 18 months of age or older, but younger than three years of age:

223 (i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the  
224 noncustodial parent or court; however, if the child is being cared for during the day outside his  
225 regular place of residence, the noncustodial parent may, with advance notice to the custodial  
226 parent, pick up the child from the caregiver at an earlier time and return him to the custodial  
227 parent by 8:30 p.m.;

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

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

231 (iv) extended parent-time may be:

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

234 (B) one week shall be uninterrupted time for the noncustodial parent;

235 (C) the remaining week shall be subject to parent-time for the custodial parent  
236 consistent with these guidelines; and

237 (D) the custodial parent shall have an identical one-week period of uninterrupted time  
238 for vacation; and

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

243 (A) the best interests of the child;

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



- 245 (C) any other factors the court considers material.
- 246 (f) For children three years of age or older, but younger than five years of age:
- 247 (i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the
- 248 noncustodial parent or court; however, if the child is being cared for during the day outside his
- 249 regular place of residence, the noncustodial parent may, with advance notice to the custodial
- 250 parent, pick up the child from the caregiver at an earlier time and return him to the custodial
- 251 parent by 8:30 p.m.;
- 252 (ii) alternative weekends beginning on the first weekend after the entry of the decree
- 253 from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;
- 254 (iii) parent-time on holidays as specified in Subsections 30-3-35(2)(c) through ~~(f)~~ (j);
- 255 (iv) extended parent-time with the noncustodial parent may be:
- 256 (A) two two-week periods, separated by at least four weeks, at the option of the
- 257 noncustodial parent;
- 258 (B) one two-week period shall be uninterrupted time for the noncustodial parent;
- 259 (C) the remaining two-week period shall be subject to parent-time for the custodial
- 260 parent consistent with these guidelines; and
- 261 (D) the custodial parent shall have an identical two-week period of uninterrupted time
- 262 for vacation; and
- 263 (v) brief telephone contact and virtual parent-time, if the equipment is reasonably
- 264 available, with the noncustodial parent at least two times per week, provided that if the parties
- 265 cannot agree on whether the equipment is reasonably available, the court shall decide whether
- 266 the equipment for virtual parent-time is reasonably available, taking into consideration:
- 267 (A) the best interests of the child;
- 268 (B) each parent's ability to handle any additional expenses for virtual parent-time; and
- 269 (C) any other factors the court considers material.
- 270 (4) A parent shall notify the other parent at least 30 days in advance of extended
- 271 parent-time or vacation weeks.
- 272 (5) Virtual parent-time shall be at reasonable hours and for reasonable duration.

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**Legislative Review Note**  
as of 1-19-09 2:12 PM

**Office of Legislative Research and General Counsel**

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**H.B. 270 - Parent-time Holiday and Notification Amendments**

**Fiscal Note**

2009 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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