

**JOINT CUSTODY MODIFICATIONS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill makes joint legal and physical custody the preferred custody arrangement in a separation or divorce.

**Highlighted Provisions:**

This bill:

- ▶ states that joint legal and physical custody of children in a divorce or separation is in the best interest of the child;
- ▶ requires the court to order joint legal and physical custody to parents in a divorce or separation action;
- ▶ allows a parent to rebut the presumption of joint legal and physical custody; and
- ▶ makes changes to the parent-time schedule.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

- 30-3-10**, as last amended by Laws of Utah 2010, Chapter 237
- 30-3-10.1**, as last amended by Laws of Utah 2003, Chapter 269
- 30-3-10.2**, as last amended by Laws of Utah 2005, Chapter 142



- 28           **30-3-10.3**, as last amended by Laws of Utah 2009, Chapter 179
- 29           **30-3-10.4**, as last amended by Laws of Utah 2010, Chapter 228
- 30           **30-3-10.8**, as enacted by Laws of Utah 2001, Chapter 126
- 31           **30-3-35**, as last amended by Laws of Utah 2010, Chapter 228
- 32           **78A-6-104**, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

35           Section 1. Section **30-3-10** is amended to read:

36           **30-3-10. Custody of children in case of separation or divorce -- Custody**  
37 **consideration.**

38           (1) If a husband and wife having minor children are separated, or their marriage is  
39 declared void or dissolved, the court shall make an order for the future care and custody of the  
40 minor children as it considers appropriate.

41           (a) In determining any form of custody, the court shall consider the best interests of the  
42 child [~~and, among other factors the court finds relevant, the following:~~].

43           ~~[(i) the past conduct and demonstrated moral standards of each of the parties;]~~

44           ~~[(ii) which parent is most likely to act in the best interest of the child, including~~  
45 ~~allowing the child frequent and continuing contact with the noncustodial parent;]~~

46           ~~[(iii) the extent of bonding between the parent and child, meaning the depth, quality,~~  
47 ~~and nature of the relationship between a parent and child; and]~~

48           ~~[(iv) those factors outlined in Section 30-3-10.2.]~~

49           (b) The court shall, in every case, [~~consider joint custody but may award any form of~~  
50 ~~custody which is determined to be] presume that joint legal and physical custody that  
51 designates equal parent-time and equal custody between the parents of all minor children is in  
52 the best interest of the child. The presumption of joint legal and physical custody may be  
53 rebutted by either party. The party seeking to rebut the presumption shall bear the burden of  
54 proof that joint legal and physical custody is not in the best interest of the minor child.~~

55           (c) The children may not be required by either party to testify unless the trier of fact  
56 determines that extenuating circumstances exist that would necessitate the testimony of the  
57 children be heard and there is no other reasonable method to present their testimony.

58           (d) The court may inquire of the children and take into consideration the children's

59 desires regarding future custody or parent-time schedules, but the expressed desires are not  
60 controlling and the court may determine the children's custody or parent-time otherwise. The  
61 desires of a child 16 years of age or older shall be given added weight, but is not the single  
62 controlling factor.

63 (e) If interviews with the children are conducted by the court pursuant to Subsection  
64 (1)(d), they shall be conducted by the judge in camera. The prior consent of the parties may be  
65 obtained but is not necessary if the court finds that an interview with the children is the only  
66 method to ascertain the child's desires regarding custody.

67 ~~[(2) In awarding custody, the court shall consider, among other factors the court finds~~  
68 ~~relevant, which parent is most likely to act in the best interests of the child, including allowing~~  
69 ~~the child frequent and continuing contact with the noncustodial parent as the court finds~~  
70 ~~appropriate.]~~

71 ~~[(3)]~~ (2) If the court finds that one parent does not desire custody of the child, the court  
72 shall take that evidence into consideration in determining ~~[whether]~~ how to award custody ~~[to~~  
73 ~~the other parent]~~.

74 ~~[(4)]~~ (3) (a) Except as provided in Subsection ~~[(4)]~~ (3)(b), a court may not discriminate  
75 against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or  
76 determining whether a substantial change has occurred for the purpose of modifying an award  
77 of custody.

78 (b) If a court takes a parent's disability into account in awarding custody or determining  
79 whether a substantial change has occurred for the purpose of modifying an award of custody,  
80 the parent with a disability may rebut any evidence, presumption, or inference arising from the  
81 disability by showing that:

82 (i) the disability does not significantly or substantially inhibit the parent's ability to  
83 provide for the physical and emotional needs of the child at issue; or

84 (ii) the parent with a disability has sufficient human, monetary, or other resources  
85 available to supplement the parent's ability to provide for the physical and emotional needs of  
86 the child at issue.

87 (c) Nothing in this section may be construed to apply to adoption proceedings under  
88 Title 78B, Chapter 6, Part 1, Utah Adoption Act.

89 ~~[(5) This section establishes neither a preference nor a presumption for or against joint~~

90 legal custody, joint physical custody or sole custody, but allows the court and the family the  
91 widest discretion to choose a parenting plan that is in the best interest of the child.]

92 Section 2. Section 30-3-10.1 is amended to read:

93 **30-3-10.1. Definitions -- Joint legal custody -- Joint physical custody.**

94 As used in this chapter:

95 (1) "Joint legal custody":

96 (a) means the sharing of the rights, privileges, duties, and powers of a parent by both  
97 parents, where specified;

98 (b) may include an award of exclusive authority by the court to one parent to make  
99 specific decisions;

100 (c) does not affect the physical custody of the child except as specified in the order of  
101 joint legal custody;

102 (d) is not based on awarding equal or nearly equal periods of physical custody of and  
103 access to the child to each of the parents, as the best interest of the child often requires that a  
104 primary physical residence for the child be designated; and

105 (e) does not prohibit the court from specifying one parent as the primary caretaker and  
106 one home as the primary residence of the child.

107 (2) "Joint physical custody":

108 (a) means the child stays with each parent overnight [~~for more than~~] a minimum of  
109 30% of the year, and both parents contribute to the expenses of the child in addition to paying  
110 child support;

111 (b) can mean equal or nearly equal periods of physical custody of and access to the  
112 child by each of the parents, as required to meet the best interest of the child;

113 (c) may require that a primary physical residence for the child be designated; and

114 (d) does not prohibit the court from specifying one parent as the primary caretaker and  
115 one home as the primary residence of the child.

116 Section 3. Section 30-3-10.2 is amended to read:

117 **30-3-10.2. Joint custody order -- Factors for court determination -- Public**  
118 **assistance.**

119 (1) The court [~~may~~] shall order joint legal custody [~~or~~] and joint physical custody [~~or~~]  
120 ~~both if one or both parents have filed a parenting plan in accordance with Section 30-3-10.8~~

121 ~~and~~ unless it determines that joint legal custody or joint physical custody or both is not in the  
122 best interest of the child.

123 (2) In determining whether the best interest of a child will not be served by ordering  
124 joint legal [~~or~~] and physical custody, the court shall consider the following factors:

125 (a) whether the physical, psychological, and emotional needs and development of the  
126 child will benefit more from a custody arrangement other than joint legal [~~or~~] and physical  
127 custody;

128 (b) the ability of the parents to give first priority to the welfare of the child and reach  
129 shared decisions in the child's best interest;

130 (c) whether each parent is capable of encouraging and accepting a positive relationship  
131 between the child and the other parent, including the sharing of love, affection, and contact  
132 between the child and the other parent;

133 (d) whether both parents participated in raising the child before the divorce;

134 (e) the geographical proximity of the homes of the parents;

135 (f) the preference of the child if the child is of sufficient age and capacity to reason so  
136 as to form an intelligent preference as to joint legal or physical custody;

137 (g) the maturity of the parents and their willingness and ability to protect the child from  
138 conflict that may arise between the parents;

139 (h) the past and present ability of the parents to cooperate with each other and make  
140 decisions jointly;

141 (i) any history of, or potential for, child abuse, spouse abuse, or kidnaping; and

142 (j) any other factors the court finds relevant.

143 (3) The determination of the best interest of the child shall be by a preponderance of  
144 the evidence. Any single factor is not sufficient to rebut the presumption in favor of joint  
145 physical and joint legal custody.

146 (4) The court shall inform both parties that an order for joint physical custody may  
147 preclude eligibility for cash assistance provided under Title 35A, Chapter 3, Employment  
148 Support Act.

149 (5) The court may order that where possible the parties attempt to settle future disputes  
150 by a dispute resolution method before seeking enforcement or modification of the terms and  
151 conditions of the order of joint legal custody or joint physical custody through litigation, except

152 in emergency situations requiring ex parte orders to protect the child.

153 (6) In evaluating and determining the overnight parent-time to be awarded to each  
154 parent, the court's order shall require the parents to:

155 (a) have significant, well-defined periods of responsibility for the child;

156 (b) be allowed and expected to have responsibility for the child's financial, physical,  
157 emotional and developmental needs during that parent's periods of responsibility; and

158 (c) consult with each other on major decisions involving the child before implementing  
159 those decisions and that neither parent may make a decision or take an action which results in a  
160 major change in the child's life until the matter has been discussed and agreed upon.

161 Section 4. Section **30-3-10.3** is amended to read:

162 **30-3-10.3. Terms of joint custody order.**

163 (1) Unless the court orders otherwise, before a final order of joint legal custody [or],  
164 joint physical custody, or both is entered, both parties shall attend the mandatory course for  
165 divorcing parents, as provided in Section 30-3-11.3, and present a certificate of completion  
166 from the course to the court.

167 (2) An order of joint legal [or] custody, joint physical custody, or both shall provide  
168 terms the court determines appropriate, which may include specifying:

169 (a) either the county of residence of the child, until altered by further order of the court,  
170 or the custodian who has the sole legal right to determine the residence of the child;

171 (b) that the parents shall exchange information concerning the health, education, and  
172 welfare of the child, and where possible, confer before making decisions concerning any of  
173 these areas;

174 (c) the rights and duties of each parent regarding the child's present and future physical  
175 care, support, and education;

176 (d) provisions to minimize disruption of the child's daily routine, attendance at school  
177 and other activities, [~~his daily routine,~~] and [his] association with friends; and

178 (e) as necessary, the remaining parental rights, privileges, duties, and powers to be  
179 exercised by the parents solely, concurrently, or jointly.

180 (3) The court shall, where possible, include in the order the terms of the parenting plan  
181 provided in accordance with Section 30-3-10.8.

182 (4) Any parental rights not specifically addressed by the court order may be exercised

183 by the parent having physical custody of the child at the [majority of the] time the issue arises  
184 unless the decision will result in a major change in the child's life. If the decision will result in  
185 a major change in the child's life the other parent shall be consulted and a decision made  
186 jointly.

187 (5) The appointment of joint legal custodians does not impair or limit the authority of  
188 the court to order support of the child, including payments by one custodian to the other.

189 (6) An order of joint legal custody, in itself, is not grounds for modifying a support  
190 order.

191 (7) An order of joint legal or physical custody shall require a parenting plan  
192 incorporating a dispute resolution procedure the parties agree to use before seeking  
193 enforcement or modification of the terms and conditions of the order of joint legal or physical  
194 custody through litigation, except in emergency situations requiring ex parte orders to protect  
195 the child.

196 Section 5. Section **30-3-10.4** is amended to read:

197 **30-3-10.4. Modification or termination of order.**

198 (1) On the petition of one or both of the parents, or the joint legal or physical  
199 custodians if they are not the parents, the court may, after a hearing, modify or terminate an  
200 order that established joint legal or physical custody if:

201 (a) the verified petition or accompanying affidavit initially alleges that admissible  
202 evidence will show that the circumstances of the child or one or both parents or joint legal or  
203 physical custodians have materially and substantially changed since the entry of the order to be  
204 modified;

205 (b) a modification of the terms and conditions of the order would be an improvement  
206 for and in the best interest of the child; and

207 (c) (i) both parents have complied in good faith with the dispute resolution procedure  
208 in accordance with Subsection 30-3-10.3(7); or

209 (ii) if no dispute resolution procedure is contained in the order that established joint  
210 legal or physical custody, the court orders the parents to participate in a dispute resolution  
211 procedure in accordance with Subsection 30-3-10.2(5) unless the parents certify that, in good  
212 faith, they have utilized a dispute resolution procedure to resolve their dispute.

213 (2) (a) In determining whether the best interest of a child will be served by either

214 modifying or terminating the joint legal or physical custody order, the court shall, in addition to  
215 other factors the court considers relevant, consider the factors outlined in Section 30-3-10 and  
216 Subsection 30-3-10.2(2).

217 (b) The court shall make specific written findings on each of the factors relied upon  
218 stating:

219 (i) a material and substantial change of circumstance has occurred; and

220 (ii) a modification of the terms and conditions of the order would be an improvement  
221 for and in the best interest of the child.

222 (c) The court shall give substantial weight to the existing joint legal or physical custody  
223 order when the child is thriving, happy, and well-adjusted.

224 (3) The court shall, in every case regarding a petition for termination of a joint legal or  
225 physical custody order, consider reasonable alternatives to preserve the existing order in  
226 accordance with Subsection 30-3-10(1)(b). The court may modify the terms and conditions of  
227 the existing order [~~in accordance with Subsection 30-3-10(5)~~] and may order the parents to file  
228 a parenting plan in accordance with this chapter.

229 (4) A parent requesting a modification from sole custody to joint legal custody or joint  
230 physical custody or both, or any other type of shared parenting arrangement, shall file and serve  
231 a proposed parenting plan with the petition to modify in accordance with Section 30-3-10.8.

232 (5) If the court finds that an action under this section is filed or answered frivolously  
233 and in a manner designed to harass the other party, the court shall assess attorney fees as costs  
234 against the offending party.

235 Section 6. Section **30-3-10.8** is amended to read:

236 **30-3-10.8. Parenting plan -- Filing -- Modifications.**

237 (1) In any proceeding under this chapter, including actions for paternity, [~~any~~] a party  
238 [~~requesting joint custody, joint legal or physical custody, or any other type of shared parenting~~  
239 ~~arrangement;~~] shall file and serve a proposed parenting plan at the time of the filing of their  
240 original petition or at the time of filing their answer or counterclaim.

241 (2) If a party in any action under this chapter, including actions for paternity, requests  
242 custody of a minor child that is not joint physical custody, joint legal custody, or both, the party  
243 shall articulate within the parenting plan:

244 (a) substantial justification for the deviation from joint custody;

245 (b) a proposed parent-time schedule that provides both parents with meaningful  
246 opportunities to share in the parenting of the child; and

247 (c) any other information necessary to enable the court to make a determination in the  
248 child's best interest and the parental relationship.

249 [~~(2)~~] (3) In proceedings for a modification of custody provisions or modification of a  
250 parenting plan, a proposed parenting plan shall be filed and served with the petition to modify,  
251 or the answer or counterclaim to the petition to modify.

252 [~~(3)~~] (4) A party who files a proposed parenting plan in compliance with this section  
253 may move the court for an order of default to adopt the plan if the other party fails to file a  
254 proposed parenting plan as required by this section. However, a parenting plan entered by  
255 default may not provide a parent with less than joint physical and joint legal custody without a  
256 hearing to determine whether less parent-time is in the best interest of the child.

257 [~~(4)~~] (5) Either party may file and serve an amended proposed parenting plan according  
258 to the rules for amending pleadings.

259 [~~(5)~~] (6) The parent submitting a proposed parenting plan shall attach a verified  
260 statement that the plan is proposed by that parent in good faith.

261 [~~(6)~~] (7) Both parents may submit a parenting plan which has been agreed upon. A  
262 verified statement, signed by both parents, shall be attached.

263 [~~(7)~~] (8) If the parents file inconsistent parenting plans, the court may appoint a  
264 guardian ad litem to represent the best interests of the child, who may, if necessary, file a  
265 separate parenting plan reflecting the best interests of the child.

266 Section 7. Section **30-3-35** is amended to read:

267 **30-3-35. Minimum schedule for parent-time for children 5 to 18 years of age.**

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

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

272 (a) (i) (A) One weekday [~~evening~~] overnight to be specified by the noncustodial parent  
273 or the court, or Wednesday evening if not specified, [~~from 5:30 p.m. until 8:30 p.m.;~~] from the  
274 time the child's school is regularly dismissed until the time the child returns to school the  
275 following morning, or at 9 a.m. if school is not in session; or

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

279 ~~[(C)]~~ (B) at the election of the noncustodial parent, if school is not in session, one  
280 weekday from approximately 9 a.m., accommodating the custodial parent's work schedule,  
281 until ~~[8:30 p.m.]~~ 9 a.m. the following day if the noncustodial parent is available to be with the  
282 child, unless the court directs the application of Subsection (2)(a)(i)(A) ~~[or (2)(a)(i)(B)]~~.

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

285 (b) (i) (A) Alternating weekends beginning on the first weekend after the entry of the  
286 decree from 6 p.m. on Friday until ~~[7 p.m.]~~ 9 a.m. on ~~[Sunday]~~ Monday continuing each year;

287 (B) at the election of the noncustodial parent, from the time the child's school is  
288 regularly dismissed on Friday until ~~[7 p.m.]~~ 9 a.m. on ~~[Sunday]~~ Monday, unless the court  
289 directs the application of Subsection (2)(b)(i)(A); or

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

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

297 (iii) Elections should be made by the noncustodial parent at the time of entry of the  
298 divorce decree or court order, and may be changed by mutual agreement, court order, or by the  
299 noncustodial parent in the event of a change in the child's schedule.

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

302 (c) Holidays include any "snow" days, teacher development days after the children  
303 begin the school year, or other days when school is not scheduled, contiguous to the holiday  
304 period, and take precedence over the weekend parent-time. Changes may not be made to the  
305 regular rotation of the alternating weekend parent-time schedule; however, birthdays take  
306 precedence over holidays and extended parent-time, except Mother's Day and Father's Day;

307 birthdays do not take precedence over uninterrupted parent-time if the parent exercising  
308 uninterrupted time takes the child away from that parent's residence for the uninterrupted  
309 extended parent-time.

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

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

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

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

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

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

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

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

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

337 (iii) spring break beginning at 6 p.m. on the day school lets out for the holiday until 7

338 p.m. on the Sunday before school resumes;

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

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

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

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

348 (viii) the first portion of the Christmas school vacation as defined in Subsection  
349 30-3-32(3)(b) including Christmas Eve and Christmas Day, continuing until 1 p.m. on the day  
350 halfway through the holiday period, if there are an odd number of days for the holiday period,  
351 or until 7 p.m. if there are an even number of days for the holiday period, so long as the entire  
352 holiday period is equally divided.

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

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

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

360 (iii) Memorial Day beginning at 6 p.m. on Friday until Monday at 7 p.m., unless the  
361 holiday extends for a lengthier period of time to which the noncustodial parent is completely  
362 entitled;

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

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

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

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

370 (viii) the second portion of the Christmas school vacation as defined in Subsection  
371 30-3-32(3)(b), beginning 1 p.m. on the day halfway through the holiday period, if there are an  
372 odd number of days for the holiday period, or at 7 p.m. if there are an even number of days for  
373 the holiday period, so long as the entire Christmas holiday period is equally divided.

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

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

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

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

381 (i) up to four consecutive weeks when school is not in session at the option of the  
382 noncustodial parent, including weekends normally exercised by the noncustodial parent, but  
383 not holidays;

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

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

388 (l) The custodial parent shall have an identical two-week period of uninterrupted time  
389 when school is not in session for purposes of vacation.

390 (m) Both parents shall provide notification of extended parent-time or vacation weeks  
391 with the child at least 30 days prior to the end of the child's school year to the other parent and  
392 if notification is not provided timely the complying parent may determine the schedule for  
393 extended parent-time for the noncomplying parent.

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

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

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

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

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

408 Section 8. Section **78A-6-104** is amended to read:

409 **78A-6-104. Concurrent jurisdiction -- District court and juvenile court.**

410 (1) The district court or other court has concurrent jurisdiction with the juvenile court  
411 as follows:

412 (a) when a person who is 18 years of age or older and who is under the continuing  
413 jurisdiction of the juvenile court under Section 78A-6-117 violates any federal, state, or local  
414 law or municipal ordinance; and

415 (b) in establishing paternity and ordering testing for the purposes of establishing  
416 paternity, in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act, with regard  
417 to proceedings initiated under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5,  
418 Termination of Parental Rights Act.

419 (2) The juvenile court has jurisdiction over petitions to modify a minor's birth  
420 certificate if the court otherwise has jurisdiction over the minor.

421 (3) This section does not deprive the district court of jurisdiction to appoint a guardian  
422 for a child, or to determine the support, custody, and parent-time of a child upon writ of habeas  
423 corpus or when the question of support, custody, and parent-time is incidental to the  
424 determination of a cause in the district court.

425 (4) (a) Where a support, custody, or parent-time award has been made by a district  
426 court in a divorce action or other proceeding, and the jurisdiction of the district court in the  
427 case is continuing, the juvenile court may acquire jurisdiction in a case involving the same  
428 child if the child is dependent, abused, neglected, or otherwise comes within the jurisdiction of  
429 the juvenile court under Section 78A-6-103.

430 (b) The juvenile court may, by order, change the custody, [~~subject to Subsection~~

431 ~~30-3-10(4)~~] support, parent-time, and visitation rights previously ordered in the district court  
432 as necessary to implement the order of the juvenile court for the safety and welfare of the child.  
433 The juvenile court order remains in effect so long as the jurisdiction of the juvenile court  
434 continues.

435 (c) When a copy of the findings and order of the juvenile court has been filed with the  
436 district court, the findings and order of the juvenile court are binding on the parties to the  
437 divorce action as though entered in the district court.

438 (5) The juvenile court has jurisdiction over questions of custody, support, and  
439 parent-time, of a minor who comes within the court's jurisdiction under this section or Section  
440 78A-6-103.

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**Legislative Review Note**  
**as of 1-27-12 8:28 AM**

**Office of Legislative Research and General Counsel**