

VISITATION AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: LaVar Christensen

Senate Sponsor: John L. Valentine

LONG TITLE

General Description:

This bill amends provisions related to supervised parent-time.

Highlighted Provisions:

This bill:

- ▶ defines supervised parent-time;
- ▶ describes the conditions under which a court can order supervised parent-time; and
- ▶ creates a process for selecting persons to supervise parent-time.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-32, as last amended by Laws of Utah 2008, Chapters 3 and 146

ENACTS:

30-3-34.5, Utah Code Annotated 1953

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

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

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



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

30 (2) (a) A court shall consider as primary the fundamental liberty interests of parents
31 and children as recognized in Sections 62A-4a-201 and 78A-6-503, which include the safety
32 and well-being of the child and the parent who [is the victim of] experience domestic or family
33 violence.

34 (b) Absent a showing by ~~H~~→ [H] a preponderance of [H] ~~[clear and convincing]~~ ←~~H~~
34a evidence of real

35 harm or substantiated potential harm to the child:

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

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

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

44 (c) An order issued by a court pursuant to Title 78B, Chapter 7, Part 1, Cohabitant
45 Abuse Act, shall be considered evidence of real harm or substantiated potential harm to the
46 child.

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

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

49 (b) "Christmas school vacation" means the time period beginning on the evening the
50 child gets out of school for the Christmas or winter school break until the evening before the
51 child returns to school.

52 (c) "Extended parent-time" means a period of parent-time other than a weekend,
53 holiday as provided in Subsections 30-3-35(2)(f) and (2)(g), religious holidays as provided in
54 Subsections 30-3-33(3) and (17), and "Christmas school vacation."

55 (d) "Supervised parent-time" means parent-time that requires the noncustodial parent to
56 be accompanied during parent-time by an individual approved by the court.

57 [~~(d)~~] (e) "Surrogate care" means care by any individual other than the parent of the
58 child.

59 [(e)] (f) "Uninterrupted time" means parent-time exercised by one parent without
60 interruption at any time by the presence of the other parent.

61 [(f)] (g) "Virtual parent-time" means parent-time facilitated by tools such as telephone,
62 email, instant messaging, video conferencing, and other wired or wireless technologies over the
63 Internet or other communication media to supplement in-person visits between a noncustodial
64 parent and a child or between a child and the custodial parent when the child is staying with the
65 noncustodial parent. Virtual parent-time is designed to supplement, not replace, in-person
66 parent-time.

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

70 Section 2. Section 30-3-34.5 is enacted to read:

71 **30-3-34.5. Supervised parent-time.**

72 (1) When ~~it is~~ **strictly** ~~necessary~~ **necessary to protect a child and no less restrictive means is**
73 **reasonably available, a court may order supervised parent-time if the court determines from**
74 **sufficient available evidence that the child would be subject to physical, psychological, or**
75 **emotional danger** ~~or child abuse, as described in Section 76-5-109,~~ **from the**
75a **noncustodial parent if left unsupervised with the noncustodial**
76 **parent.**

77 (2) **A court that indicates its intention to order supervised parent-time shall require**
78 **both parties to provide the names of at least two persons who are capable and willing to**
79 **supervise the proposed noncustodial parent if needed during parent-time.**

80 (3) **The court shall select one name from each list and designate one to be the primary**
81 **supervisor and one to be the secondary supervisor. The secondary supervisor may only be used**
82 **when the primary supervisor is unavailable. The court shall provide additional guidance and**
83 **direction for parent-time when neither supervisor is available.**

84 (4) The court shall ~~try to~~ **diligently strive to** ~~give preference to~~ **give preference to a relative of the**
84a **noncustodial**
85 **parent who is known to the child, or an individual recommended by the noncustodial parent,**
86 **when making the selection in Subsection (3).**

87 (5) (a) **Supervised parent-time may only be assigned to a paid service if the court finds**
88 **that there is no suitable relative or recommended individual willing and able to fulfill the role**
89 **as provided in Subsection (2).**

90 (b) A paid service provider may not cause undue financial hardship that effectively
91 prevents a parent from full and fair exercise of the parent's rights pursuant to Sections
92 62A-4a-201 and 78A-6-503.

93 (c) A noncustodial parent may petition the court and is entitled to restoration of
94 unsupervised parent-time due to improved circumstances and correction of former conditions
95 that the previous order was based upon. Supervised parent-time is an extreme protective
96 measure. Relief shall be made available on an expedited basis to the fullest extent possible.
97 Supervised parent-time is temporary and may not cause or contribute to potential irretrievable
98 destruction of family relationships. A reasonable plan for eliminating the need for supervision
99 may be ordered by the court. At all times, the court shall balance parental rights, children's
100 interests, and family unity.

101 (d) A noncustodial parent's inability to pay for expenses associated with this
102 Subsection (5) is not cause to withhold parent-time and is solely subject to debt collection
103 procedures and remedies.

Legislative Review Note
as of 2-6-14 7:24 AM

Office of Legislative Research and General Counsel