

1 VISITATION AMENDMENTS

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: LaVar Christensen

5 Senate Sponsor: John L. Valentine

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7 LONG TITLE

8 General Description:

9 This bill amends provisions related to supervised parent-time.

10 Highlighted Provisions:

11 This bill:

- 12 ▶ defines supervised parent-time;
- 13 ▶ describes the conditions under which a court can order supervised parent-time;
- 14 ▶ creates a process for selecting persons to supervise parent-time; and
- 15 ▶ allows the supervised parent to petition the court for unsupervised parent-time.

16 Money Appropriated in this Bill:

17 None

18 Other Special Clauses:

19 None

20 Utah Code Sections Affected:

21 AMENDS:

22 **30-3-32**, as last amended by Laws of Utah 2008, Chapters 3 and 146

23 ENACTS:

24 **30-3-34.5**, Utah Code Annotated 1953

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

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

28 **30-3-32. Parent-time -- Intent -- Policy -- Definitions.**

29 (1) It is the intent of the Legislature to promote parent-time at a level consistent with

30 all parties' interests.

31 (2) (a) A court shall consider as primary the safety and well-being of the child and the  
32 parent who ~~[is the victim of]~~ experiences domestic or family violence.

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

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

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

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

43 (c) An order issued by a court pursuant to Title 78B, Chapter 7, Part 1, Cohabitant  
44 Abuse Act<sub>2</sub> shall be considered evidence of real harm or substantiated potential harm to the  
45 child.

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

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

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

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

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

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

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

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

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

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

70           **30-3-34.5. Supervised parent-time.**

71           (1) Considering the fundamental liberty interests of parents and children, it is the  
72 policy of this state that divorcing parents have unrestricted and unsupervised access to their  
73 children. When necessary to protect a child and no less restrictive means is reasonably  
74 available however, a court may order supervised parent-time if the court finds evidence that the  
75 child would be subject to physical or emotional harm or child abuse, as described in Section  
76 [76-5-109](#), from the noncustodial parent if left unsupervised with the noncustodial parent.

77           (2) A court that orders supervised parent-time shall give preference to persons  
78 suggested by the parties to supervise, including relatives. If the court finds that the persons  
79 suggested by the parties are willing to supervise, and are capable of protecting the children  
80 from physical or emotional harm, or child abuse, the court shall authorize the persons to  
81 supervise parent-time.

82           (3) If the court is unable to authorize any persons to supervise parent-time pursuant to  
83 Subsection (2), the court may require that the noncustodial parent seek the services of a  
84 professional individual or agency to exercise their supervised parent-time.

85           (4) At the time supervised parent-time is imposed, the court shall consider:

86           (a) whether the cost of professional or agency services is likely to prevent the  
87 noncustodial parent from exercising parent-time; and

88           (b) whether the requirement for supervised parent-time should expire after a set period  
89 of time.

90           (5) The court shall, in its order for supervised parent-time, provide specific goals and  
91 expectations for the noncustodial parent to accomplish before unsupervised parent-time may be  
92 granted. The court shall schedule one or more follow-up hearings to revisit the issue of  
93 supervised parent-time.

94           (6) A noncustodial parent may, at any time, petition the court to modify the order for  
95 supervised parent-time if the noncustodial parent can demonstrate that the specific goals and  
96 expectations set by the court in Subsection (5) have been accomplished.