

# HB0201S01 compared with HB0201

~~text~~ shows text that was in HB0201 but was deleted in HB0201S01.

text shows text that was not in HB0201 but was inserted into HB0201S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Todd Weiler proposes the following substitute bill:

## VISITATION AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: LaVar Christensen**

Senate Sponsor: ~~\_\_\_\_\_~~ John L. Valentine

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### 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:

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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

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*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.**

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

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

(b) Absent a showing by ~~[a preponderance of]~~ clear and convincing evidence of real harm or substantiated potential harm to the child:

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

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

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

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

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

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

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

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child returns to school.

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

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

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

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

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

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

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

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

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

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

~~\_\_\_\_\_ (3) The court shall select one name from each list and designate one to be the primary supervisor and one to be the secondary supervisor. The secondary supervisor may only be used~~

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~~when the primary supervisor is unavailable. The court shall provide additional guidance and direction for parent-time when neither supervisor is available.~~

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

~~—— (5) (a) Supervised parent-time may only be assigned to a paid service if {persons suggested by the parties to supervise. If the court finds that {there is no suitable relative or recommended individual willing and able to fulfill the role as provided in Subsection (2).~~

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

~~—— {c}the persons suggested by the parties are willing to supervise, and are capable of protecting the children from physical, psychological or emotional harm, or child abuse, the court shall authorize the persons to supervise parent-time.~~

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

~~(4) A noncustodial parent may petition the court {and is entitled }to {restoration of unsupervised}modify the order for supervised parent-time {due to improved circumstances and correction of former conditions that the previous order was based upon. Supervised}if the noncustodial parent can demonstrate that he or she has remedied the circumstances that justified the order for supervised parent-time{ is an extreme protective measure. Relief shall be made available on an expedited basis to the fullest extent possible. Supervised parent-time is temporary and may not cause or contribute to potential irretrievable destruction of family relationships. A reasonable plan for eliminating the need for supervision may be ordered by the court. At all times, the court shall balance parental rights, children's interests, and family unity}.~~

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

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~~Legislative Review Note~~

~~as of 2-6-14 7:24 AM~~

~~Office of Legislative Research and General Counsel~~