

PARENT-TIME SCHEDULE AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: V. Lowry Snow

Senate Sponsor: Lyle W. Hillyard

LONG TITLE

General Description:

This bill creates an optional parent-time schedule.

Highlighted Provisions:

This bill:

- ▶ creates an optional parent-time schedule of 145 overnights;
- ▶ sets holiday schedules; and
- ▶ provides for specific elections by the noncustodial parent.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-34, as last amended by Laws of Utah 2008, Chapter 146

ENACTS:

30-3-35.1, Utah Code Annotated 1953

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

Section 1. Section **30-3-34** is amended to read:

30-3-34. Best interests -- Rebuttable presumption.



28 (1) If the parties are unable to agree on a parent-time schedule, the court may establish
29 a parent-time schedule consistent with the best interests of the child.

30 (2) The advisory guidelines as provided in Section 30-3-33 and the parent-time
31 schedule as provided in Sections 30-3-35 and 30-3-35.5 shall be presumed to be in the best
32 interests of the child unless the court determines that Section 30-3-35.1 should apply. The
33 parent-time schedule shall be considered the minimum parent-time to which the noncustodial
34 parent and the child shall be entitled unless a parent can establish otherwise by a preponderance
35 of the evidence that more or less parent-time should be awarded based upon any of the
36 following criteria:

37 (a) parent-time would endanger the child's physical health or significantly impair the
38 child's emotional development;

39 (b) the distance between the residency of the child and the noncustodial parent;

40 (c) a substantiated or unfounded allegation of child abuse has been made;

41 (d) the lack of demonstrated parenting skills without safeguards to ensure the child's
42 well-being during parent-time;

43 (e) the financial inability of the noncustodial parent to provide adequate food and
44 shelter for the child during periods of parent-time;

45 (f) the preference of the child if the court determines the child to be of sufficient
46 maturity;

47 (g) the incarceration of the noncustodial parent in a county jail, secure youth
48 corrections facility, or an adult corrections facility;

49 (h) shared interests between the child and the noncustodial parent;

50 (i) the involvement or lack of involvement of the noncustodial parent in the school,
51 community, religious, or other related activities of the child;

52 (j) the availability of the noncustodial parent to care for the child when the custodial
53 parent is unavailable to do so because of work or other circumstances;

54 (k) a substantial and chronic pattern of missing, canceling, or denying regularly
55 scheduled parent-time;

56 (l) the minimal duration of and lack of significant bonding in the parents' relationship
57 prior to the conception of the child;

58 (m) the parent-time schedule of siblings;

- 59 (n) the lack of reasonable alternatives to the needs of a nursing child; and
- 60 (o) any other criteria the court determines relevant to the best interests of the child.
- 61 (3) The court shall enter the reasons underlying its order for parent-time that:
- 62 (a) incorporates a parent-time schedule provided in Section 30-3-35 or 30-3-35.5; or
- 63 (b) provides more or less parent-time than a parent-time schedule provided in Section
- 64 30-3-35 or 30-3-35.5.

65 (4) Once the parent-time schedule has been established, the parties may not alter the
 66 schedule except by mutual consent of the parties or a court order.

67 Section 2. Section 30-3-35.1 is enacted to read:

68 **30-3-35.1. Optional schedule for parent-time for children 5 to 18 years of age.**

69 (1) The optional parent-time schedule in this section applies to children 5 to 18 years of
 70 age. This schedule is 145 overnights. Any impact on child support shall be consistent with
 71 Subsection 78B-12-102(14).

72 (2) The parents and the court may consider the following increased parent-time
 73 schedule as a minimum when the parties agree or the noncustodial parent can demonstrate the
 74 following:

- 75 (a) the noncustodial parent has been actively involved in the child's life;
- 76 (b) the parties are able to communicate effectively regarding the child, or the
 77 noncustodial parent has a plan to accomplish effective communications regarding the child;
- 78 (c) the noncustodial parent has the ability to facilitate the increased parent-time;
- 79 (d) the increased parent-time would be in the best interest of the child; and
- 80 (e) any other factor the court considers relevant.

81 (3) In determining whether a noncustodial parent has been actively involved in the
 82 child's life, the court shall consider:

- 83 (a) demonstrated responsibility in caring for the child;
- 84 (b) involvement in day care;
- 85 (c) presence or volunteer efforts in the child's school and at extracurricular activities;
- 86 (d) assistance with the child's homework;
- 87 (e) involvement in preparation of meals, bath time, and bedtime for the child;
- 88 (f) bonding with the child; and
- 89 (g) any other factor the court considers relevant.

90 (4) In determining whether a noncustodial parent has the ability to facilitate the
91 increased parent-time, the court shall consider:

92 (a) the geographic distance between the residences of the parents and the distance
93 between the parents' residences and the child's school;

94 (b) the noncustodial parent's ability to assist with after school care;

95 (c) the health of the child and the noncustodial parent, consistent with Subsection
96 30-3-10(4);

97 (d) flexibility of employment or other schedule of the parent;

98 (e) ability to provide appropriate playtime with the child;

99 (f) history and ability of the parent to implement a flexible schedule for the child;

100 (g) physical facilities of the noncustodial parent's residence; and

101 (h) any other factor the court considers relevant.

102 (5) Any elections required to be made in accordance with this section by either parent
103 concerning parent-time shall be made a part of the decree and made a part of the parent-time
104 order. Elections may only be changed by mutual agreement, court order, or by the noncustodial
105 parent in the event of a change in the child's schedule.

106 (6) If the parties agree or the court enters an order for the optional parent-time schedule
107 as set forth in this section, a parenting plan in compliance with Sections 30-1-10.7 through
108 30-3-10.10 shall be filed with any order incorporating the following optional parent-time
109 schedule:

110 (a) The noncustodial parent or the court may specify one weekday for parent-time. If
111 no day is specified, weekday parent-time shall be on Wednesday from 5:30 p.m. until the
112 following day when delivering the child to school, or until 8 a.m., if there is no school the
113 following day. Once the election of the weekday is made, it may only be changed in
114 accordance with Subsection (5). At the election of the noncustodial parent, weekday
115 parent-time may commence:

116 (i) from the time the child's school is regularly dismissed; or

117 (ii) if school is not in session, and the parent is available to be with the child, at
118 approximately 8 a.m., accommodating the custodial parent's work schedule.

119 (b) Beginning on the first weekend after the entry of the decree, the noncustodial parent
120 shall be entitled to alternating weekends beginning on the first weekend after the entry of the

121 decree from 6 p.m. on Friday until Monday when delivering the child to school, or until 8 a.m.
122 if there is no school on Monday. At the election of the noncustodial parent, weekend
123 parent-time may commence:

124 (i) from the time the child's school is regularly dismissed on Friday; or
125 (ii) if school is not in session, and the parent is available to be with the child, at
126 approximately 8 a.m. on Friday, accommodating the custodial parent's work schedule.

127 (c) The provisions of Subsections 30-3-35(2)(f) through (o) shall be incorporated here
128 and constitute the parent-time schedule with the exception that all instances that require the
129 noncustodial parent to return the child at any time after 6 p.m. be changed so that the
130 noncustodial parent is required to return the child to school the next morning or at 8 a.m., if
131 there is no school.

132 (7) A stepparent, grandparent, or other responsible adult designated by the noncustodial
133 parent may pick up the child if the custodial parent is aware of the identity of the individual,
134 and if the noncustodial parent will be with the child by 7 p.m.

135 (8) Weekends include any "snow" days, teacher development days, or other days when
136 school is not scheduled and that are contiguous to the weekend period.

137 (9) Holidays include any "snow" days, teacher development days after the child begins
138 the school year, or other days when school is not scheduled, contiguous to the holiday period,
139 and take precedence over weekend parent-time. Changes may not be made to the regular
140 rotation of the alternating weekend parent-time schedule.

141 (a) If a holiday falls on a school day, the noncustodial parent shall be responsible for
142 the child's attendance at school for that school day.

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

146 (c) At the election of the noncustodial parent, parent-time over a scheduled holiday
147 weekend may begin from the time the child's school is dismissed at the beginning of the
148 holiday weekend or, if school is not in session, and if the noncustodial parent is available to be
149 with the child, parent-time over a scheduled holiday weekend may begin at approximately 8
150 a.m., accommodating the custodial parent's work schedule, unless the court directs the
151 application of Subsection (6)(a).

152 (10) Birthdays take precedence over holidays and extended parent-time, except
153 Mother's Day and Father's Day. Birthdays do not take precedence over uninterrupted
154 parent-time if the parent exercising uninterrupted time is out of town for the uninterrupted
155 extended parent-time. At the discretion of the noncustodial parent, other siblings may be taken
156 along for birthdays.

157 (11) Notwithstanding Subsection (9)(b), the Halloween holiday may not be extended
158 beyond the hours designated in Subsection [30-3-35\(2\)\(g\)\(vi\)](#).

Legislative Review Note
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Office of Legislative Research and General Counsel