

Utah Code 30-3-40: Child Custody and Parent-Time When A Parent Is In the Military

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Utah Code 30-3-40 is a set of advisory guidelines put into effect in 2017. It is used by the courts to help make determinations in child custody and parent time cases. This set of statutes is applied in conjunction with Sections 30-3-35 and 30-3-35.5, which lay out the parameters governing court-ordered parent-time when one parent is a military member.

General Parent-Time Requirements

Utah child custody laws reflect the State's preference for cooperative agreement between divorced parents to set up parent-time schedules vs. a solution ordered by the court. The state views working together as the best mode of co-parenting for the child's interest. In fact, the purpose of a parent time schedule, per Code 30-3-40, is expressly to prevent disruptions and maximize stability in the lives of children after their parents divorce. Some primary requirements under the 30-3-40 include:

- Each parent will make a special effort to make the child available for significant events involving the child or other parent that unexpectedly conflict with the routine parent-time schedule.
- The court will determine the pick-up and delivery arrangements for the child at parent-time. Those arrangements can be later changed.
- When one parent provides transportation, the other parent shall have the child ready for parent-time and receive the child when the child is returned.
- Children's regular school hours must not be interrupted for parent-time.

- The court can modify the parent-time schedule to fit more reasonably with both parents' work schedules, the distance between the parent's homes, and the expense of parent-time.
- The court can increase the amount of parent time permitted for the noncustodial parent but must not diminish the parent-time arrangement established on 30-3-35 and 30-3-35.5.
- Parents cannot withhold parenting time or child support payments due to the other parent's failure to obey the parent time schedule ordered by the court.
- The noncustodial parent is entitled to receive a 24-hour notice from the other parent of ceremonies, school events, and other occasions for the child and to participate fully in those.
- The noncustodial parent is entitled to all school, preschool, and daycare records and reports for parents, medical records, etc., and shall be immediately notified in case of a medical emergency.
- Both parents shall update each other with their current addresses, phone numbers, email addresses, and other contact information for virtual parent-time within 24 hours of a change.

Parents must encourage each other's communications with their child, including through virtual parent-time, if appropriate equipment is available for it and the court finds that it is practicable for the parents and in the child's best interest.

The State of Utah finds that parental care is better for children than surrogate care. Therefore, the court encourages parents to cooperate in enabling the noncustodial parent to care for the child if that parent is willing and can transport the child.

Parents shall also provide each other with contact information for any surrogates caring for the child while the child is in their custody during their parent time.

Both parents are entitled to spend time with the child during religious holidays and various important events.

If parent time schedules are different between siblings (30-3-35 and 30-3-35.5), parents should consider modifications of parent time to make it more balanced between the children, as appropriate.

If one or both parents are military service members, they need to reach an agreement per Code 78B-20-201 or obtain a court order (per 30-3-10) and ensure the family care plan includes and is clear on all agreements and orders filed per the Uniform Deployed Parents Custody, Parent-time, and Visitation Act (78B-20).

How Does 78B-20-201 Affect Divorced Military Parents?

This section of Utah law lays out an agreement regarding the custodial responsibility of divorced parents if one or both parents are deployed during their military service.

Divorced parents can make a temporary agreement (78B-20-201) for one to allow the other custody during deployment. Military parents are supposed to make such an agreement before receiving notice of deployment but can agree to the notice of deployment has been issued.

- The agreement must be in writing, and it must be signed by both parents as well as by any other person who will be granted custodial responsibility.
- If feasible, the details of the deployment should be included in the agreement. It should name the destination and duration of the deployment as well as the basis for and conditions of the agreement if notice of such information is available.
- The agreement should clearly state the arrangements between the deploying parent, the other parent, and anyone else who will have temporary custody of the child.
- It must specify the amount of authority for decision-making granted to the person with temporary custodial responsibility and include a process for resolving any disputes that may occur.
- Specify *how*, how often, and how long the deploying parent's virtual communications with the child are agreed to occur while the deployed parent is on leave or is otherwise available.

Child Support During Military Deployment

The existing court-ordered child support obligation remains intact and cannot be altered by the temporary change of custodial responsibilities that may occur per 78B-20-205. Both parents and any other party who may become involved in custodial responsibilities for the child during the deployment must clearly understand that making any changes to the terms of the temporary custodial obligation during the deployment would require formal modification by a judge in the appropriate Utah court.

Who is Responsible for Filings and Docs Under 78B-20-205?

Include a provision in your temporary agreement regarding custodial responsibilities during one parent's or both parents' military deployment regarding termination of the agreement per the procedures detailed in Part 4 regarding the Return from Deployment.

If the agreement must be legally filed after the deployment ends, name the parent who will be required to file it and any documentation required to return to the pre-deployment parent time schedule.

The service member should ensure that his/her family care plan includes arrangements for agreements and orders filed in accordance with this chapter of the statutes. However, any omissions of the specified requirement in this section of the Utah Code do not invalidate the temporary agreement for custodial responsibilities detailed in this section.

Help for Divorced Military Parents in Utah

As you can see from the information above, preparing and filing the proper requests and documents with the Utah family courts for temporary agreements in cases of military deployments is complex. Attorney David Pedrazas helps people with military divorce law in Utah. He organizes the detailed arrangements for a smooth and accurate process. Your attorney provides everything the court requires to make a judgment and avoid unnecessary delays and adverse outcomes due to incomplete or inappropriate documentation.

If you need a temporary agreement for custodial responsibility, call the Law Office of David Pedrazas, PLLC, or contact us here online for help.

Contact Us!
