

Utah State Code 30-3-33: Withholding Parent Time for Nonpayment of Child Support

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If you are involved in child support or parent-time dispute, it's important to understand key guidelines in Utah State Code 30-3-33, which family court judges are likely to use when establishing custody arrangements and parent-time. The advisories set forth in Utah Code 30-3-33 (effective as of 2017) are recognized by the Utah Appellate Courts as *advisory guidelines*, vs. *legal requirements*. But, Code 30-3-33 is frequently employed by judges in writing divorce decrees and court orders specifying legally binding parent-time arrangements in child custody cases.

Consult with an experienced Utah custody and child support attorney, to ensure that your child's interests and all your legal rights are fully protected in your custody, child support, and parent time case.

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What Are the Utah Code Section 30-3-33 Guidelines?

The Utah 30-3-33 guidelines are “suggested to govern all parent-time arrangements” between custodial and noncustodial parents. The guidelines in Section 30-3-33 are provided by the State in addition to Utah Code Sections 30-3-35 and 30-3-35.5. They map out a detailed plan for cooperative management of parent-time and other matters of custodial and noncustodial parents' roles and responsibilities in relation to one another.

The following are some guidelines (paraphrased) included in the total of 19 guidelines set forth in Utah Code Section 30-3-33. These are provided here to give you a sense of the extent of the State's expectations:

1. that divorced parents will both cooperate in *helping maintain* each parent's relationship with the child.
2. that both will *consistently prioritize* the benefit of the child in all parenting actions affecting the other parent.

Examples of guidelines in Utah Code Section 30-3-33:

- The parent-time schedule must be utilized to maximize *continuity and stability* in the child's life.
- Each parent will help make the child *available to attend* significant family events (like weddings, family reunions, etc.) that occur on dates that conflict with the set parent-time schedule.
- The court may alter the parent-time schedule in order to accommodate both parents' work schedules, and may increase the noncustodial parent's parent time, but may not reduce the standard amount of it as laid out in Sections 30-3-35 and 30-3-35.5.
- A parent cannot withhold parent-time or child support payments because of the other parent's failure to comply with a court order for support payments or an order to make the child available for scheduled parent-time." (This is 30-3-33(10).)
- The custodial parent must notify the noncustodial parent of all significant events that the child will attend, and the noncustodial parent is entitled to *fully participate* at such events.
- During reasonable hours, the noncustodial parent must be *encouraged to engage* in reasonable communications with the child, without being censored, by virtual technology, based on the child's best interest and other factors.
- Child care by a parent is assumed to be more *beneficial for the child* than care by another person, therefore the noncustodial parent should be viewed as the best option for child care.

Read all 19 guidelines in Section 30-3-33, including for managing a child's attendance at each parent's religious celebrations, sharing information on each other's surrogate child care providers, and others.



How Can 30-3-33(10) Affect You and Your Child?

All the above sample advisories reflect the spirit of the Section 30-3-33 set of guidelines. As you can see in those, the State of Utah contemplates a highly cooperative parent-time arrangement that enables a stable relationship between the child and *each* parent. It also effectively fosters engagement in parenting by both the custodial and noncustodial parent to the *fullest extent* that is reasonable under the circumstances of the divorce.

While some of these guidelines are not controversial, 30-3-33(10) is one around which conflict more often emerges. Under court orders adhering to this particular guideline:

- The *custodial parent* is prohibited from *withholding parent-time* for the noncustodial parent and the child due to any nonpayment of child support.
- The *noncustodial parent* is prohibited from withholding child support payments due to any amount of failure by the custodial parent to make the child available for allotted parent time.

In other words, a parent's failure to comply with a court order cannot justify the other parent's noncompliance with another order of the court. In the case of parent time and child support, for example, a mother cannot legally withhold a father's access to their children because the father fails to pay child support. Alternatively, the father cannot legally withhold child support payments because the mother is not making the children available for his parent time with them.

Utah law does provide for other remedies that the custodial parent may seek, to resolve unpaid child support and the failure of a custodial parent to facilitate required parent-time, per the guidelines. If a parent withholds parent-time or child support, in violation of a judge's order:

- **Right Solution:** Hold the parent who is breaking the law accountable by filing an Order to Show Cause with the family court.

- **Wrong Solution:** Commit an additional violation of the law by disobeying the court order to provide parent-time or child support, making yourself potentially guilty of contempt of court (a punishable offense).

Remember, *no* legal solution can include withholding of any amount of parent time or child support that is required by a divorce decree or by a court order.

NOTE: Even if *no* provisions of 30-3-33 are stipulated in the court's formal decision in your case, a judge can apply them when modifying an existing decree or revising a previous court order.

Attorney David Pedrazas, Salt Lake City Utah

For more than 20 years, Attorney David Pedrazas has been helping families work through the difficulties of divorce, child custody, and child support issues and make the best-informed choices for their future beyond divorce. He has been repeatedly recognized as one of Salt Lake City's best divorce lawyers by the National Academy of Family Law Association, the American Institute of Family Law, and the American Academy of Trial Attorneys.

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For help with your custody or child support matter, contact the Law Office of David Pedrazas, PLL, Salt Lake City UT at (801) 263-7078, or reach us online for help to schedule an appointment for a consultation.

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