

PARENT-TIME AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: _____

LONG TITLE**General Description:**

This bill amends provisions related to parent-time schedules.

Highlighted Provisions:

This bill:

- clarifies parent-time for certain holidays;
- clarifies the purpose of the number of overnights for the optional parent-time schedule for a child who is five to 18 years old; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:****30-3-35**, as repealed and reenacted by Laws of Utah 2022, Chapter 471**30-3-35.1**, as repealed and reenacted by Laws of Utah 2022, Chapter 471

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **30-3-35** is amended to read:**30-3-35. Minimum schedule for parent-time for a child five to 18 years old.**

(1) As used in this section, "weekends" include any snow days, teacher development days, or other days when school is not scheduled and that are contiguous to the weekend period.

(2) The parent-time schedule in this section applies to a child who is five to 18 years old.

(3) If the parties do not agree to a parent-time schedule for a child described in Subsection (2), the following schedule is considered the minimum parent-time to which the noncustodial parent is entitled to the child:

(a) (i) one weekday evening to be specified by the noncustodial parent or the court or Wednesday evening if not specified, beginning at 5:30 p.m. and ending at 8:30 p.m.; or

(ii) at the election of the noncustodial parent, one weekday to be specified by the noncustodial parent or the court:

(A) beginning at the time that the child's school is regularly dismissed and ending at 8:30 p.m.; or

(B) if school is not in session, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent's work schedule, beginning at 9 a.m. and ending at 8:30 p.m.;

(b) (i) beginning on the first weekend after entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending on Sunday at 7 p.m.; or

(ii) at the election of the noncustodial parent and beginning on the first weekend after the entry of the decree, alternating weekends:

(A) beginning at the time that the child's school is regularly dismissed on Friday and ending on Sunday at 7 p.m.; or

(B) if school is not in session, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent's work schedule, beginning on Friday at 9 a.m. and ending on Sunday at 7 p.m.;

(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection (13); and

(d) extended parent-time with the child when school is not in session for summer break in accordance with Subsection (4).

(4) (a) For extended parent-time with the child under Subsection (3)(d) and at the

election of the noncustodial parent, the noncustodial parent is entitled up to four weeks of parent-time with the child, which may be consecutive, when school is not in session for summer break.

(b) For the four weeks of extended parent-time for a noncustodial parent under Subsection (4)(a):

(i) two weeks, which may be consecutive, shall be uninterrupted parent-time for the noncustodial parent; and

(ii) two weeks, which may be consecutive, may be interrupted by the custodial parent for a weekday visit on the same day on which the noncustodial parent is granted weekday day parent-time.

(c) A custodial parent is entitled to uninterrupted parent-time with the child for two weeks, which may be consecutive, when school is not in session for summer break.

(5) (a) Each parent shall provide notification to the other parent of the parent's plans for the exercise of extended parent-time for summer break under Subsection (4).

(b) For the notification requirement under Subsection (5)(a):

(i) in odd-numbered years:

(A) the noncustodial parent shall provide notice to the custodial parent by May 1; and

(B) the custodial parent shall provide notice to the noncustodial parent by May 15; and

(ii) in even-numbered years:

(A) the custodial parent shall provide notice to the noncustodial parent by May 1; and

(B) the noncustodial parent shall provide notice to the custodial parent by May 15.

(c) (i) If a parent fails to provide a notification within the time periods described in Subsection (5)(b), the complying parent may determine the schedule for summer break for the noncomplying parent.

(ii) If both parents fail to provide notice within the time periods described in Subsection (5)(b), the first parent to provide notice may determine the schedule for summer break for the other parent.

(d) If a custodial parent intends to interrupt a noncustodial parent's parent-time under Subsection (4)(b)(ii), the custodial parent shall provide notification to the noncustodial parent of the intent to interrupt parent-time within 10 days after the day on which the custodial parent receives notification of the noncustodial parent's plans for the exercise of interrupted extended

parent-time.

(6) (a) An election should be made by the noncustodial parent at the time of entry of the divorce decree or court order, except that the election may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(b) An election by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.

(7) (a) Changes may not be made to the parent-time schedule under this section, except that if a conflict arises in the parent-time schedule, the following order of precedence shall be applied when determining which parent is entitled to parent-time:

(i) the holiday schedule for Mother's Day or Father's Day under Subsection (13);

(ii) the holiday schedule for the child's birthday, unless a parent is exercising uninterrupted extended parent-time under Subsection (4) and takes the child away from that parent's residence during the uninterrupted extended parent-time;

(iii) the holiday schedule for any holiday under Subsection (13) that is not Father's Day, Mother's Day, or the child's birthday;

(iv) extended parent-time under Subsection (4); and

(v) the schedule for weekday or weekend parent-time.

(b) A parent exercising parent-time for the child's birthday may bring other siblings along for the child's birthday.

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

(9) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the child's attendance at school for that school day.

(10) If there is more than one child and the children's school schedules vary for purpose of a holiday, at the option of the parent exercising the holiday or the parent's half of the holiday, the children may remain together for the holiday period beginning the first evening that all children's schools are dismissed for the holiday and ending the evening before any child returns to school.

(11) (a) Telephone contact shall be at reasonable hours and for a reasonable duration.

(b) (i) Virtual parent-time, if the equipment is reasonably available and the parents reside at least 100 miles apart, shall be at reasonable hours and for reasonable duration.

(ii) If the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

(A) the best interests of the child;

(B) each parent's ability to handle any additional expenses for virtual parent-time; and

(C) any other factors the court considers material.

(c) Virtual parent-time supplements, but does not replace, in-person parent-time.

(12) If there is a child five to 18 years old and a child under five years old and both children are the natural or adopted children of the parties, the parents and the court should consider an upward deviation for parent-time with all the children so that parent-time is uniform based on a schedule under this section.

(13) The following table is the holiday schedule for parent-time under this section.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Dr. Martin Luther King Jr. Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on the day before school resumes. <u>Dr. Martin Luther King Jr. Day.</u>	Odd years	Even years

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President's Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on [the day before school resumes.] <u>President's Day.</u>	Even years	Odd years
Spring Break	(1) Holiday begins at 6 p.m. on the day that school dismisses for spring break. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years
Memorial Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on [the day before school resumes.] <u>Memorial Day.</u>	Even years	Odd years

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Mother's Day	(1) Holiday begins on Mother's Day at 9 a.m. (2) Holiday ends on Mother's Day at 7 p.m.	All years if noncustodial parent is the mother or other parent granted the holiday in the order.	All years if custodial parent is the mother or other parent granted the holiday in the order.
Father's Day	(1) Holiday begins on Father's Day at 9 a.m. (2) Holiday ends on Father's Day at 7 p.m.	All years if noncustodial parent is the father or other parent granted the holiday in the order.	All years if custodial parent is the father or other parent granted the holiday in the order.
Independence Day	(1) Holiday begins on July 3rd at 6 p.m. (2) Holiday ends on July 5th at 6 p.m.	Odd years	Even years
Pioneer Day	(1) Holiday begins on July 23rd at 6 p.m. (2) Holiday ends on July 25th at 6 p.m.	Even years	Odd years

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Labor Day	(1) Holiday begins on Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on [the day before school resumes.] <u>Labor Day.</u>	Odd years	Even years
Columbus Day	(1) Holiday begins at 6 p.m. on the day before Columbus Day. (2) Holiday ends at 7 p.m. on Columbus Day.	Even years	Odd years
Fall Break	(1) Holiday begins at 6 p.m. on the day school is dismissed for fall break. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years
Halloween	(1) Holiday begins on October 31st or the day that Halloween is traditionally celebrated in the local community: (a) at the time that school is dismissed; or (b) at 4 p.m. if there is no school. (2) Holiday ends at 9 p.m. on the same day the holiday begins.	Even years	Odd years

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Veterans Day	(1) Holiday begins at 6 p.m. on the day before Veterans Day. (2) Holiday ends at 7 p.m. on Veterans Day.	Odd years	Even years
Thanksgiving	(1) Holiday begins on Wednesday at: (a) 6 p.m.; or (b) the time school is regularly dismissed for Thanksgiving at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on the night before school resumes.	Even years	Odd years
Winter Break (First Half)	(1) Holiday begins at: (a) 6 p.m. on the day on that school dismisses for winter break; or (b) the time school is regularly dismissed on the day that school dismisses for winter break at the election of the parent granted the holiday. (2) Holiday ends on December 27th at 7 p.m.	Odd years	Even years
Winter Break (Second Half)	(1) Holiday begins on December 27th at 7 p.m. (2) Holiday ends at 7 p.m. on the night before school resumes.	Even years	Odd years
Day of Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years

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Day Before or After Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Odd years	Even years
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Section 2. Section **30-3-35.1** is amended to read:

30-3-35.1. Optional schedule for parent-time for a child five to 18 years old.

(1) As used in this section, "weekends" include any snow days, teacher development days, or other days when school is not scheduled and that are contiguous to the weekend period.

(2) (a) The optional parent-time schedule in this section applies to a child who is five to 18 years old.

(b) ~~[The]~~ For purposes of calculating child support, the optional parent-time schedule in this section is 145 overnights.

(c) Any impact on child support shall be consistent with joint physical custody, as defined in Section **78B-12-102**.

(3) The parents and the court may consider the increased parent-time schedule in this section as a minimum parent-time schedule when the parties agree or the noncustodial parent can demonstrate:

(a) the noncustodial parent has been actively involved in the child's life;

(b) the parties can communicate effectively regarding the child or the noncustodial parent has a plan to accomplish effective communications regarding the child;

(c) the noncustodial parent has the ability to facilitate the increased parent-time;

(d) the increased parent-time would be in the best interest of the child; and

(e) any other factor the court considers relevant.

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

(a) demonstrated responsibility in caring for the child;

(b) involvement in childcare;

(c) presence or volunteer efforts in the child's school and at extracurricular activities;

(d) assistance with the child's homework;

(e) involvement in preparation of meals, bath time, and bedtime for the child;

181 (f) bonding with the child; and

182 (g) any other factor the court considers relevant.

183 (5) In determining whether a noncustodial parent has the ability to facilitate the
184 increased parent-time, the court shall consider:

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

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

188 (c) the health of the child and the noncustodial parent in accordance with Subsection
189 30-3-10(6);

190 (d) flexibility of employment or another schedule of the noncustodial parent;

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

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

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

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

196 (6) If the parties agree or the court enters an order for the optional parent-time schedule
197 under this section, a parenting plan in compliance with Sections 30-3-10.7 through 30-3-10.10
198 shall be filed with any order incorporating the optional parent-time schedule described in
199 Subsection (7).

200 (7) The following schedule is considered the optional parent-time to which the
201 noncustodial parent is entitled to the child:

202 (a) (i) one weekday evening to be specified by the noncustodial parent or the court or
203 Wednesday evening if not specified, beginning at 5:30 p.m. and ending the following day upon
204 delivering the child to school or at 8 a.m. if there is no school; or

205 (ii) at the election of the noncustodial parent, one weekday specified by the
206 noncustodial parent or the court:

207 (A) beginning at the time the child's school is regularly dismissed until the following
208 day upon delivering the child to school or at 8 a.m. if there is no school; or

209 (B) if there is no school, the noncustodial parent is available to be with the child, and
210 in accommodation with the custodial parent's work schedule, beginning at 8 a.m. and ending on
211 the following day upon delivering the child to school or at 8 a.m. if there is no school;

(b) (i) beginning the first weekend after the entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending on Monday upon delivering the child to school or at 8 a.m. if there is no school; or

(ii) at the election of the noncustodial parent, beginning the first weekend after the entry of the decree, alternating weekends:

(A) beginning at the time the child's school is regularly dismissed on Friday and ending on Monday upon delivering the child to school or at 8 a.m. if there is no school; or

(B) if there is no school, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent's work schedule, beginning on Friday at 9 a.m. and ending on Monday upon delivering the child to school or at 8 a.m. if there is no school;

(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection (16); and

(d) extended parent-time with the child when school is not in session for summer break in accordance with Subsection (8).

(8) (a) For extended parent-time with the child under Subsection (7)(d) and at the election of the noncustodial parent, the noncustodial parent is entitled up to four weeks of parent-time with the child, which may be consecutive, when school is not in session for summer break.

(b) For the four weeks of extended parent-time for a noncustodial parent under Subsection (8)(a):

(i) two weeks, which may be consecutive, shall be uninterrupted parent-time for the noncustodial parent; and

(ii) two weeks, which may be consecutive, may be interrupted by the custodial parent for a weekday visit on the same day on which the noncustodial parent is granted weekday day parent-time.

(c) A custodial parent is entitled to uninterrupted parent-time with the child for two weeks, which may be consecutive, when school is not in session for summer break.

(9) (a) Each parent shall provide notification to the other parent of the parent's plans for the exercise of parent-time for summer break under Subsection (8).

(b) For the notification requirement under Subsection (9)(a):

(i) in odd-numbered years:

243 (A) the noncustodial parent shall provide notice to the custodial parent by May 1; and

244 (B) the custodial parent shall provide notice to the noncustodial parent by May 15; and

245 (ii) in even-numbered years:

246 (A) the custodial parent shall provide notice to the noncustodial parent by May 1; and

247 (B) the noncustodial parent shall provide notice to the custodial parent by May 15.

248 (c) (i) If a parent fails to provide a notification within the time periods described in
249 Subsection (9)(b), the complying parent may determine the schedule for summer break for the
250 noncomplying parent.

251 (ii) If both parents fail to provide notice within the time periods described in
252 Subsection (9)(b), the first parent to provide notice may determine the schedule for summer
253 break for the other parent.

254 (d) If a custodial parent intends to interrupt a noncustodial parent's parent-time under
255 Subsection (8)(b)(ii), the custodial parent shall provide notification to the noncustodial parent
256 of the intent to interrupt parent-time within 10 days after the day on which the custodial parent
257 receives notification of the noncustodial parent's plans for the exercise of interrupted extended
258 parent-time.

259 (10) (a) An election should be made by the noncustodial parent at the time of entry of
260 the divorce decree or court order, except that the election may be changed by mutual
261 agreement, court order, or by the noncustodial parent in the event of a change in the child's
262 schedule.

263 (b) An election by either parent concerning parent-time shall be made a part of the
264 decree and made a part of the parent-time order.

265 (11) (a) Changes may not be made to the parent-time schedule under this section,
266 except that if a conflict arises in the parent-time schedule, the following order of precedence
267 shall be applied when determining which parent is entitled to parent-time:

268 (i) the holiday schedule for Mother's Day or Father's Day under Subsection (16);

269 (ii) the holiday schedule for the child's birthday, unless a parent is exercising
270 uninterrupted extended parent-time under Subsection (8) and takes the child away from that
271 parent's residence during the uninterrupted extended parent-time;

272 (iii) the holiday schedule for any holiday under Subsection (16) that is not Father's Day,
273 Mother's Day, or the child's birthday;

(iv) extended parent-time under Subsection (8); and

(v) the schedule for weekday or weekend parent-time.

(b) A parent exercising parent-time for the child's birthday may bring other siblings along for the child's birthday.

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

(13) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the child's attendance at school for that school day.

(14) If there is more than one child and the children's school schedules vary for purpose of a holiday, at the option of the parent exercising the holiday or the parent's half of the holiday, the children may remain together for the holiday period beginning the first evening that all children's schools are dismissed for the holiday and ending the evening before any child returns to school.

(15) If there is a child five to 18 years old and a child under five years old and both children are the natural or adopted children of the parties, the parents and the court should consider an upward deviation for parent-time with all the children so that parent-time is uniform based on a schedule under this section.

(16) The following table is the holiday schedule for parent-time under this section.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
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Dr. Martin Luther King Jr. Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering of the child to school on the day following Dr. Martin Luther King Jr. Day; or (b) at 8 a.m. on the day following Dr. Martin Luther King Jr. Day if there is no school.	Odd years	Even years
President's Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the child to school on the day following President's Day; or (b) at 8 a.m. on the day following President's Day if there is no school.	Even years	Odd years

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Spring Break	(1) Holiday begins at 6 p.m. on the day that school dismisses for spring break. (2) Holiday ends: (a) upon delivering the child to school on the day following the end of spring break; or (b) at 8 a.m. on the day following the end of spring break if there is no school.	Odd years	Even years
Memorial Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the child to school on the day following Memorial Day; or (b) at 8 a.m. on the day following Memorial Day if there is no school.	Even years	Odd years
Mother's Day	(1) Holiday begins on Mother's Day at 9 a.m. (2) Holiday ends on Mother's Day at 7 p.m.	All years if noncustodial parent is the mother or other parent designated in the order.	All years if custodial parent is the mother or other parent designated in the order.

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Father's Day	(1) Holiday begins on Father's Day at 9 a.m. (2) Holiday ends on Father's Day at 7 p.m.	All years if noncustodial parent is the father or other parent designated in the order.	All years if custodial parent is the father or other parent designated in the order.
300 Independence Day	(1) Holiday begins on July 3rd at 6 p.m. (2) Holiday ends on July 5th at 6 p.m.	Odd years	Even years
301 Pioneer Day	(1) Holiday begins on July 23rd at 6 p.m. (2) Holiday ends on July 25th at 6 p.m.	Even years	Odd years
302 Labor Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the child to school on the day following Labor Day; or (b) at 8 a.m. on the day following Labor Day if there is no school.	Odd years	Even years

303	Columbus Day	(1) Holiday begins at 6 p.m. on the day before Columbus Day. (2) Holiday ends at 7 p.m. on Columbus Day.	Even years	Odd years
304	Fall Break	(1) Holiday begins at 6 p.m. on the day school is dismissed for fall break. (2) Holiday ends: (a) upon delivering the child to school on the day following the end of fall break; or (b) at 8 a.m. on the day following the end of fall break if there is no school.	Odd years	Even years
305	Halloween	(1) Holiday begins on October 31st or the day that Halloween is traditionally celebrated in the local community: (a) at the time that school is dismissed; or (b) at 4 p.m. if there is no school. (2) Holiday ends at 9 p.m. on the same day the holiday begins.	Even years	Odd years
306	Veterans Day	(1) Holiday begins at 6 p.m. on the day before Veterans Day. (2) Holiday ends at 7 p.m. on Veterans Day.	Odd years	Even years

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Thanksgiving	(1) Holiday begins on Wednesday at: (a) 6 p.m.; or (b) the time school is regularly dismissed for Thanksgiving at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the child to school on the Monday following Thanksgiving; or (b) at 8 a.m. on the Monday following Thanksgiving if there is no school.	Even years	Odd years
Winter Break (First Half)	(1) Holiday begins at: (a) 6 p.m. <u>on the day that school dismisses for winter break</u>; or (b) the time school is regularly dismissed on the day that school dismisses for winter break at the election of the parent granted the holiday. (2) Holiday ends on December 27th at 7 p.m.	Odd years	Even years
Winter Break (Second Half)	(1) Holiday begins on December 27th at 7 p.m. (2) Holiday ends upon delivering the child to school on the day that school resumes after the winter break.	Even years	Odd years

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310	Day of Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years
311	Day Before or After Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Odd years	Even years