

1 **COSTS OF DIVORCE**

2 2006 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Peggy Wallace**

5 Senate Sponsor: Sheldon L. Killpack

7 **LONG TITLE**

8 **General Description:**

9 This bill raises the filing fee for a divorce or separate maintenance action to ~~H→~~ [\$500]

9a \$155 ←H .

10 **Highlighted Provisions:**

11 This bill:

12 ▶ raises the filing fee for a divorce or separate maintenance action to ~~H→~~ [\$500]

12a \$155 ←H .

13 **Monies Appropriated in this Bill:**

14 None

15 **Other Special Clauses:**

16 None

17 **Utah Code Sections Affected:**

18 AMENDS:

19 **78-7-35**, as last amended by Chapter 2, Laws of Utah 2003, Second Special Session

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

22 Section 1. Section **78-7-35** is amended to read:

23 **78-7-35. Civil fees of the courts of record -- Courts complex design.**

24 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a
25 court of record not governed by another subsection is \$155.

26 (b) The fee for filing a complaint or petition is:

27 (i) \$50 if the claim for damages or amount in interpleader exclusive of court costs,



28 interest, and attorney fees is \$2,000 or less;

29 (ii) \$95 if the claim for damages or amount in interpleader exclusive of court costs,

30 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

31 (iii) \$155 if the claim for damages or amount in interpleader is \$10,000 or more; and

32 (iv) [~~\$95~~] ~~H~~→ [~~\$500~~] \$155 ←~~H~~ if the petition is filed under Title 30, Chapter 3, Divorce,

32a or Title 30,

33 Chapter 4, Separate Maintenance.

34 (c) The fee for filing a small claims affidavit is:

35 (i) \$45 if the claim for damages or amount in interpleader exclusive of court costs,
36 interest, and attorney fees is \$2,000 or less; and

37 (ii) \$70 if the claim for damages or amount in interpleader exclusive of court costs,
38 interest, and attorney fees is greater than \$2,000.

39 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
40 complaint, or other claim for relief against an existing or joined party other than the original
41 complaint or petition is:

42 (i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is
43 \$2,000 or less;

44 (ii) \$75 if the claim for relief exclusive of court costs, interest, and attorney fees is
45 greater than \$2,000 and less than \$10,000;

46 (iii) \$105 if the original petition is filed under Subsection (1)(a), the claim for relief is
47 \$10,000 or more, or the party seeks relief other than monetary damages; and

48 (iv) \$85 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
49 Chapter 4, Separate Maintenance.

50 (e) The fee for filing a small claims counter affidavit is:

51 (i) \$35 if the claim for relief exclusive of court costs, interest, and attorney fees is
52 \$2,000 or less; and

53 (ii) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
54 greater than \$2,000.

55 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
56 action already before the court is determined under Subsection (1)(b) based on the amount
57 deposited.

58 (g) The fee for filing a petition is:

59 (i) \$75 for trial de novo of an adjudication of the justice court or of the small claims
60 department; and

61 (ii) \$55 for an appeal of a municipal administrative determination in accordance with
62 Section 10-3-703.7.

63 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
64 petition for writ of certiorari is \$205.

65 (i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a
66 petition for expungement is \$65.

67 (ii) There is no fee for a petition filed under Subsection 77-18-10(2).

68 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
69 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
70 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
71 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
72 Act.

73 (ii) Two dollars of the fees established by Subsections (1)(a) through (i) shall be
74 allocated by the state treasurer to be deposited in the restricted account, Children's Legal
75 Defense Account, as provided in Section 63-63a-8.

76 (iii) One dollar of the fees established under Subsections (1)(a) through (e), (1)(g), and
77 (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in
78 Section 78-31b-9.

79 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),
80 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be
81 deposited in the restricted account, Court Security Account, as provided in Section 63-63c-102.

82 (v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and
83 (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court
84 Security Account, as provided in Section 63-63c-102.

85 (k) The fee for filing a judgment, order, or decree of a court of another state or of the
86 United States is \$25.

87 (l) The fee for filing probate or child custody documents from another state is \$25.

88 (m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the
89 Utah State Tax Commission is \$30.

90 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state
91 or a judgment, order, or decree of an administrative agency, commission, board, council, or
92 hearing officer of this state or of its political subdivisions other than the Utah State Tax
93 Commission, is \$40.

94 (n) The fee for filing a judgment by confession without action under Section 78-22-3 is
95 \$25.

96 (o) The fee for filing an award of arbitration for confirmation, modification, or
97 vacation under Title 78, Chapter 31a, Utah Uniform Arbitration Act, that is not part of an
98 action before the court is \$25.

99 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is \$40.

100 (q) The fee for filing any accounting required by law is:

101 (i) \$10 for an estate valued at \$50,000 or less;

102 (ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;

103 (iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;

104 (iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and

105 (v) \$150 for an estate valued at more than \$168,000.

106 (r) The fee for filing a demand for a civil jury is \$75.

107 (s) The fee for filing a notice of deposition in this state concerning an action pending in
108 another state under Utah Rule of Civil Procedure 26 is \$25.

109 (t) The fee for filing documents that require judicial approval but are not part of an
110 action before the court is \$25.

111 (u) The fee for a petition to open a sealed record is \$25.

112 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$35 in
113 addition to any fee for a complaint or petition.

114 (w) The fee for a petition for authorization for a minor to marry required by Section
115 30-1-9 is \$5.

116 (x) The fee for a certificate issued under Section 26-2-25 is \$2.

117 (y) The fee for a certified copy of a document is \$4 per document plus 50 cents per
118 page.

119 (z) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
120 per page.

121 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of
122 documents and forms and for the search and retrieval of records under Title 63, Chapter 2,
123 Government Records Access and Management Act. Fees under this Subsection (1)(aa) shall be
124 credited to the court as a reimbursement of expenditures.

125 (bb) There is no fee for services or the filing of documents not listed in this section or
126 otherwise provided by law.

127 (cc) Except as provided in this section, all fees collected under this section are paid to
128 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
129 accepts the pleading for filing or performs the requested service.

130 (dd) The filing fees under this section may not be charged to the state, its agencies, or
131 political subdivisions filing or defending any action. In judgments awarded in favor of the
132 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court
133 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums
134 collected under this Subsection (1)(dd) shall be applied to the fees after credit to the judgment,
135 order, fine, tax, lien, or other penalty and costs permitted by law.

136 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts
137 shall transfer all revenues representing the difference between the fees in effect after May 2,
138 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of
139 Facilities Construction and Management Capital Projects Fund.

140 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities
141 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the
142 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to
143 initiate the development of a courts complex in Salt Lake City.

144 (B) If the Legislature approves funding for construction of a courts complex in Salt
145 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and
146 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection
147 (2)(a)(ii) to construct a courts complex in Salt Lake City.

148 (C) After the courts complex is completed and all bills connected with its construction
149 have been paid, the Division of Facilities Construction and Management shall use any monies
150 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal
151 District Court building.

152 (iii) The Division of Facilities Construction and Management may enter into
153 agreements and make expenditures related to this project before the receipt of revenues
154 provided for under this Subsection (2)(a)(iii).

155 (iv) The Division of Facilities Construction and Management shall:

156 (A) make those expenditures from unexpended and unencumbered building funds
157 already appropriated to the Capital Projects Fund; and

158 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for
159 under this Subsection (2).

160 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues
161 representing the difference between the fees in effect after May 2, 1994, and the fees in effect
162 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted
163 account.

164 (c) The Division of Finance shall deposit all revenues received from the court
165 administrator into the restricted account created by this section.

166 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall
167 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor
168 Vehicles, in a court of record to the Division of Facilities Construction and Management
169 Capital Projects Fund. The division of money pursuant to Section 78-3-14.5 shall be calculated
170 on the balance of the fine or bail forfeiture paid.

171 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer
172 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in
173 a court of record to the Division of Finance for deposit in the restricted account created by this
174 section. The division of money pursuant to Section 78-3-14.5 shall be calculated on the
175 balance of the fine or bail forfeiture paid.

176 (3) (a) There is created within the General Fund a restricted account known as the State
177 Courts Complex Account.

178 (b) The Legislature may appropriate monies from the restricted account to the
179 administrator of the courts for the following purposes only:

180 (i) to repay costs associated with the construction of the court complex that were
181 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

182 (ii) to cover operations and maintenance costs on the court complex.

Legislative Review Note

as of 1-23-06 11:15 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

AMENDED NOTE

State Impact

Passage of this bill will require \$35,600 for a new Court clerk. However, the fee increase would generate \$ 588,000 in new revenue for the General Fund.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund	\$35,600	\$35,600	\$588,000	\$588,000
	\$0	\$0	\$0	\$0
TOTAL	<u><u>\$35,600</u></u>	<u><u>\$35,600</u></u>	<u><u>\$588,000</u></u>	<u><u>\$588,000</u></u>

Individual and Business Impact

This bill increases filing fees for a divorce or separate maintenance action from \$95 to \$155.
