

**DIVORCE ORIENTATION**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lorie D. Fowlke**

**Senate Sponsor: Curtis S. Bramble**

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**LONG TITLE**

**General Description:**

This bill creates an intermediate step before a divorce filing and a mandatory divorce orientation course for couples.

**Highlighted Provisions:**

This bill:

- ▶ creates an optional temporary separation order as an intermediate step before filing for divorce;
- ▶ makes an exception for couples with no minor children;
- ▶ requires the parties to the temporary separation order attend a divorce orientation course;
- ▶ sets the fee for a temporary separation order at \$25;
- ▶ establishes a mandatory divorce orientation course;
- ▶ sets guidelines and course requirements for the divorce orientation course; and
- ▶ allows a credit for the temporary separation order fee to apply to a subsequent filing for divorce.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**



32 None

33 **Utah Code Sections Affected:**

34 AMENDS:

35 **78-7-35**, as last amended by Chapters 132 and 199, Laws of Utah 2006

36 ENACTS:

37 **30-3-4.5**, Utah Code Annotated 1953

38 **30-3-11.4**, Utah Code Annotated 1953



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

41 Section 1. Section **30-3-4.5** is enacted to read:

42 **30-3-4.5. Motion for temporary separation order.**

43 (1) A petitioner may file an action for a temporary separation order without filing a  
44 petition for divorce by filing a petition for temporary separation and motion for temporary  
45 orders if:

46 (a) the petitioner is lawfully married to the respondent; and

47 (b) both parties are residents of the state for at least 90 days prior to the date of filing.

48 (2) The temporary orders are valid for one year from the date of the hearing, or until  
49 one of the following occurs:

50 (a) a petition for divorce is filed and consolidated with the petition for temporary  
51 separation; or

52 (b) the case is dismissed.

53 (3) If a petition for divorce is filed and consolidated with the petition for temporary  
54 separation, orders entered in the temporary separation shall continue in the consolidated case.

55 (4) Both parties shall attend the divorce orientation course described in Section  
56 30-3-11.4 within 60 days of the filing of the petition, for petitioner, and within 45 days of being  
57 served, for respondent.

58 (5) Service shall be made upon respondent, together with a 20-day summons, in  
59 accordance with the rules of civil procedure.

60           (6) The fee for filing the petition for temporary separation orders shall be \$25. If either  
61 party files a petition for divorce within one year from the date of filing the petition for  
62 temporary separation, the \$25 shall be credited towards the filing fee for the divorce.

63           Section 2. Section **30-3-11.4** is enacted to read:

64           **30-3-11.4. Mandatory orientation course for divorcing parties -- Purpose --**  
65 **Curriculum -- Exceptions.**

66           (1) There is established a mandatory divorce orientation course for all parties with  
67 minor children who file a petition for temporary separation or for a divorce. A couple with no  
68 minor children are not required, but may choose to attend the course. The purpose of the  
69 course shall be to educate parties about the divorce process and reasonable alternatives.

70           (2) A petitioner shall attend a divorce orientation course no more than 60 days after  
71 filing a petition for divorce.

72           (3) The respondent shall attend the divorce orientation course no more than 30 days  
73 after being served with a petition for divorce.

74           (4) The clerk of the court shall provide notice to a petitioner of the requirement for the  
75 course, and information regarding the course shall be included with the petition or motion,  
76 when served on the respondent.

77           (5) The divorce orientation course shall be neutral, unbiased, at least one hour in  
78 duration, and include:

79           (a) options available as alternatives to divorce;

80           (b) resources available from courts and administrative agencies for resolving custody  
81 and support issues without filing for divorce;

82           (c) resources available to improve or strengthen the marriage;

83           (d) a discussion of the positive and negative consequences of divorce;

84           (e) a discussion of the process of divorce;

85           (f) options available for proceeding with a divorce, including:

86           (i) mediation;

87           (ii) collaborative law; and

88           (iii) litigation; and  
89           (g) a discussion of post-divorce resources.  
90           (6) The course may be provided in conjunction with the mandatory course for  
91 divorcing parents required by Section 30-3-11.3.  
92           (7) The Administrative Office of the Courts shall administer the course pursuant to  
93 Title 63, Chapter 56, Utah Procurement Code, through private or public contracts.  
94           (8) Each participant shall pay the costs of the course, which may not exceed \$20, to the  
95 independent contractor providing the course at the time and place of the course.  
96           (a) A fee of \$5 shall be collected, as part of the course fee paid by each participant, and  
97 deposited in the Children's Legal Defense Account described in Section 63-63a-8.  
98           (b) A participant who is unable to pay the costs of the course may attend without  
99 payment and request an Affidavit of Impecuniosity from the provider to be filed with the  
100 petition or motion. The provider shall be reimbursed for its costs by the Administrative Office  
101 of the Courts. A petitioner who is later determined not to meet the qualifications for  
102 impecuniosity may be ordered to pay the costs of the course.  
103           (9) Appropriations from the General Fund to the Administrative Office of the Courts  
104 for the divorce orientation course shall be used to pay the costs of an indigent petitioner who is  
105 determined to be impecunious as provided in Subsection (8)(b).  
106           (10) The Online Court Assistance Program shall include instructions with the forms for  
107 divorce which inform the petitioner of the requirement of this section.  
108           (11) Both parties shall attend a divorce orientation course before a divorce decree may  
109 be entered, unless waived by the court. A certificate of completion constitutes evidence to the  
110 court of course completion by the parties.  
111           (12) It shall be an affirmative defense in all divorce actions that the divorce orientation  
112 requirement was not complied with, and the action may not continue until a party has  
113 complied.  
114           (13) The Administrative Office of the Courts shall adopt a program to evaluate the  
115 effectiveness of the mandatory educational course. Progress reports shall be provided annually

116 to the Judiciary Interim Committee.

117 Section 3. Section **78-7-35** is amended to read:

118 **78-7-35. Civil fees of the courts of record -- Courts complex design.**

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

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

122 (i) \$50 if the claim for damages or amount in interpleader exclusive of court costs,  
123 interest, and attorney fees is \$2,000 or less;

124 (ii) \$95 if the claim for damages or amount in interpleader exclusive of court costs,  
125 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

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

127 (iv) \$155 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter  
128 4, Separate Maintenance[-]; and

129 (v) \$25 for a motion for temporary separation order filed under Section 30-3-4.5.

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

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

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

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

138 (i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is  
139 \$2,000 or less;

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

142 (iii) \$105 if the original petition is filed under Subsection (1)(a), the claim for relief is  
143 \$10,000 or more, or the party seeks relief other than monetary damages; and

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

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

147 (i) \$35 if the claim for relief exclusive of court costs, interest, and attorney fees is  
148 \$2,000 or less; and

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

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

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

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

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

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

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

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

164 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be  
165 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'  
166 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'  
167 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement  
168 Act.

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

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

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

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

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

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

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

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

190 (n) The fee for filing a judgment by confession without action under Section 78-22-3 is  
191 \$25.

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

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

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

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

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

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

- 200 (iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and
- 201 (v) \$150 for an estate valued at more than \$168,000.
- 202 (r) The fee for filing a demand for a civil jury is \$75.
- 203 (s) The fee for filing a notice of deposition in this state concerning an action pending in
- 204 another state under Utah Rule of Civil Procedure 26 is \$25.
- 205 (t) The fee for filing documents that require judicial approval but are not part of an
- 206 action before the court is \$25.
- 207 (u) The fee for a petition to open a sealed record is \$25.
- 208 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$35 in
- 209 addition to any fee for a complaint or petition.
- 210 (w) (i) The fee for a petition for authorization for a minor to marry required by Section
- 211 30-1-9 is \$5.
- 212 (ii) The fee for a petition for emancipation of a minor provided in Title 78, Chapter 3a,
- 213 Part 10, Emancipation, is \$50.
- 214 (x) The fee for a certificate issued under Section 26-2-25 is \$2.
- 215 (y) The fee for a certified copy of a document is \$4 per document plus 50 cents per
- 216 page.
- 217 (z) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
- 218 per page.
- 219 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of
- 220 documents and forms and for the search and retrieval of records under Title 63, Chapter 2,
- 221 Government Records Access and Management Act. Fees under this Subsection (1)(aa) shall be
- 222 credited to the court as a reimbursement of expenditures.
- 223 (bb) There is no fee for services or the filing of documents not listed in this section or
- 224 otherwise provided by law.
- 225 (cc) Except as provided in this section, all fees collected under this section are paid to
- 226 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
- 227 accepts the pleading for filing or performs the requested service.

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

234 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts  
235 shall transfer all revenues representing the difference between the fees in effect after May 2,  
236 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of  
237 Facilities Construction and Management Capital Projects Fund.

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

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

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

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

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

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

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

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

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

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

269 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer  
270 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in  
271 a court of record to the Division of Finance for deposit in the restricted account created by this  
272 section. The division of money pursuant to Section 78-3-14.5 shall be calculated on the  
273 balance of the fine or bail forfeiture paid.

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

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

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

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