

DIVORCE ORIENTATION

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lorie D. Fowlke

Senate Sponsor: _____

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 a temporary separation order as an intermediate step before filing for divorce;
- ▶ 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:

None

Utah Code Sections Affected:

AMENDS:



28 78-7-35, as last amended by Chapters 132 and 199, Laws of Utah 2006

29 ENACTS:

30 30-3-4.5, Utah Code Annotated 1953

31 30-3-11.4, Utah Code Annotated 1953



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

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

35 **30-3-4.5. Motion for temporary separation order.**

36 (1) A petitioner may file a motion for temporary separation order without filing a
37 petition for divorce if:

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

39 (b) both parties are residents of the state.

40 (2) The temporary orders are valid for one year from the date of initial filing, or until:

41 (a) a petition for divorce is filed;

42 (b) the parties agree otherwise and the court approves; or

43 (c) the court orders otherwise.

44 (3) Both parties shall attend the divorce orientation course described in Section
45 30-3-11.4 within 45 days of the filing of the motion, for petitioner, and within 30 days of being
46 served, for respondent.

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

49 (3) The fee for filing the motion for temporary separation orders shall be \$25. If either
50 party files a petition for divorce within one year from the date of filing the motion for
51 temporary separation orders, the \$25 shall be credited towards the filing fee for the divorce.

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

53 **30-3-11.4. Mandatory orientation course for divorcing parties -- Purpose --**
54 **Curriculum -- Exceptions.**

55 (1) There is established a mandatory divorce orientation course for all parties who file
56 for a motion for temporary separation or for a divorce. The purpose of the course shall be to
57 educate parties about the divorce process and reasonable alternatives.

58 (2) A petitioner shall attend a divorce orientation course no more than 45 days after

59 filing a petition for divorce.

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

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

65 (5) The divorce orientation course shall be at least one hour in duration and include:

66 (a) options available as alternatives to divorce;

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

69 (c) resources available to improve or strengthen the marriage and to address issues
70 causing the marriage to break down, including marriage counseling and marriage education;

71 (d) a discussion of the consequences of divorce;

72 (e) a discussion of the process of divorce; and

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

74 (i) mediation;

75 (ii) collaborative law; and

76 (iii) litigation.

77 (6) The course may be provided in conjunction with the mandatory course for
78 divorcing parents required by Section 30-3-11.3.

79 (7) The Administrative Office of the Courts shall administer the course pursuant to
80 Title 63, Chapter 56, Utah Procurement Code, through private or public contracts.

81 (8) Each participant shall pay the costs of the course, which may not exceed \$20, to the
82 independent contractor providing the course at the time and place of the course.

83 (a) A fee of \$5 shall be collected, as part of the course fee paid by each participant, and
84 deposited in the Children's Legal Defense Account described in Section 63-63a-8.

85 (b) A participant who is unable to pay the costs of the course may attend without
86 payment and request an Affidavit of Impecuniosity from the provider to be filed with the
87 petition or motion. The provider shall be reimbursed for its costs by the Administrative Office
88 of the Courts. A petitioner who is later determined not to meet the qualifications for
89 impecuniosity may be ordered to pay the costs of the course.

90 (9) Appropriations from the General Fund to the Administrative Office of the Courts
91 for the divorce orientation course shall be used to pay the costs of an indigent petitioner who is
92 determined to be impecunious as provided in Subsection (8)(b).

93 (10) The Online Court Assistance Program shall include instructions with the forms for
94 divorce which inform the petitioner of the requirement of this section.

95 (11) Both parties shall attend a divorce orientation course before a divorce decree may
96 be entered, unless waived by the court. A certificate of completion constitutes evidence to the
97 court of course completion by the parties.

98 (12) It shall be an affirmative defense in all divorce actions that the divorce orientation
99 requirement was not complied with, and the action may not continue until a party has
100 complied.

101 (13) The Administrative Office of the Courts shall adopt a program to evaluate the
102 effectiveness of the mandatory educational course. Progress reports shall be provided annually
103 to the Judiciary Interim Committee.

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

105 **78-7-35. Civil fees of the courts of record -- Courts complex design.**

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

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

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

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

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

114 (iv) \$155 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter
115 4, Separate Maintenance[-]; and

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

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

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

120 (ii) \$70 if the claim for damages or amount in interpleader exclusive of court costs,

121 interest, and attorney fees is greater than \$2,000.

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

125 (i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is
126 \$2,000 or less;

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

129 (iii) \$105 if the original petition is filed under Subsection (1)(a), the claim for relief is
130 \$10,000 or more, or the party seeks relief other than monetary damages; and

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

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

134 (i) \$35 if the claim for relief exclusive of court costs, interest, and attorney fees is
135 \$2,000 or less; and

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

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

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

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

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

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

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

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

151 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be

152 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
153 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
154 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
155 Act.

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

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

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

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

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

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

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

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

177 (n) The fee for filing a judgment by confession without action under Section 78-22-3 is
178 \$25.

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

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

- 183 (q) The fee for filing any accounting required by law is:
- 184 (i) \$10 for an estate valued at \$50,000 or less;
- 185 (ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;
- 186 (iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;
- 187 (iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and
- 188 (v) \$150 for an estate valued at more than \$168,000.
- 189 (r) The fee for filing a demand for a civil jury is \$75.
- 190 (s) The fee for filing a notice of deposition in this state concerning an action pending in
- 191 another state under Utah Rule of Civil Procedure 26 is \$25.
- 192 (t) The fee for filing documents that require judicial approval but are not part of an
- 193 action before the court is \$25.
- 194 (u) The fee for a petition to open a sealed record is \$25.
- 195 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$35 in
- 196 addition to any fee for a complaint or petition.
- 197 (w) (i) The fee for a petition for authorization for a minor to marry required by Section
- 198 30-1-9 is \$5.
- 199 (ii) The fee for a petition for emancipation of a minor provided in Title 78, Chapter 3a,
- 200 Part 10, Emancipation, is \$50.
- 201 (x) The fee for a certificate issued under Section 26-2-25 is \$2.
- 202 (y) The fee for a certified copy of a document is \$4 per document plus 50 cents per
- 203 page.
- 204 (z) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
- 205 per page.
- 206 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of
- 207 documents and forms and for the search and retrieval of records under Title 63, Chapter 2,
- 208 Government Records Access and Management Act. Fees under this Subsection (1)(aa) shall be
- 209 credited to the court as a reimbursement of expenditures.
- 210 (bb) There is no fee for services or the filing of documents not listed in this section or
- 211 otherwise provided by law.
- 212 (cc) Except as provided in this section, all fees collected under this section are paid to
- 213 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk

214 accepts the pleading for filing or performs the requested service.

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

221 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts
222 shall transfer all revenues representing the difference between the fees in effect after May 2,
223 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of
224 Facilities Construction and Management Capital Projects Fund.

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

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

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

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

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

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

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

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

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

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

256 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer
257 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in
258 a court of record to the Division of Finance for deposit in the restricted account created by this
259 section. The division of money pursuant to Section 78-3-14.5 shall be calculated on the
260 balance of the fine or bail forfeiture paid.

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

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

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

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

Legislative Review Note
as of 1-10-07 5:10 PM

Office of Legislative Research and General Counsel

H.B. 128 - Divorce Orientation

Fiscal Note

2007 General Session
State of Utah

State Impact

Enactment of this bill will require additional appropriations for the Courts in the amount of \$145,700 annually. Fees generated by the new filings will increase revenues to the General Fund by \$12,500 and the Children's Legal Defense Restricted Fund will see an increase estimated at \$80,000.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>
General Fund	\$0	\$145,700	\$145,700	\$0	\$12,500	\$12,500
Restricted Funds	\$0	\$0	\$0	\$0	\$80,000	\$80,000
Total	\$0	\$145,700	\$145,700	\$0	\$92,500	\$92,500

Individual, Business and/or Local Impact

Enactment of this bill may result in direct fees from individuals in divorce proceedings.
