

MARRIAGE AND DIVORCE



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MARRIAGE BRINGS



US TOGETHER . . .

. . . Divorce Allows Us
to Move On

An Overview

Marriage and Divorce Rates

Marriage

- Civil-Law
- Common-Law
- Eligibility

Divorce

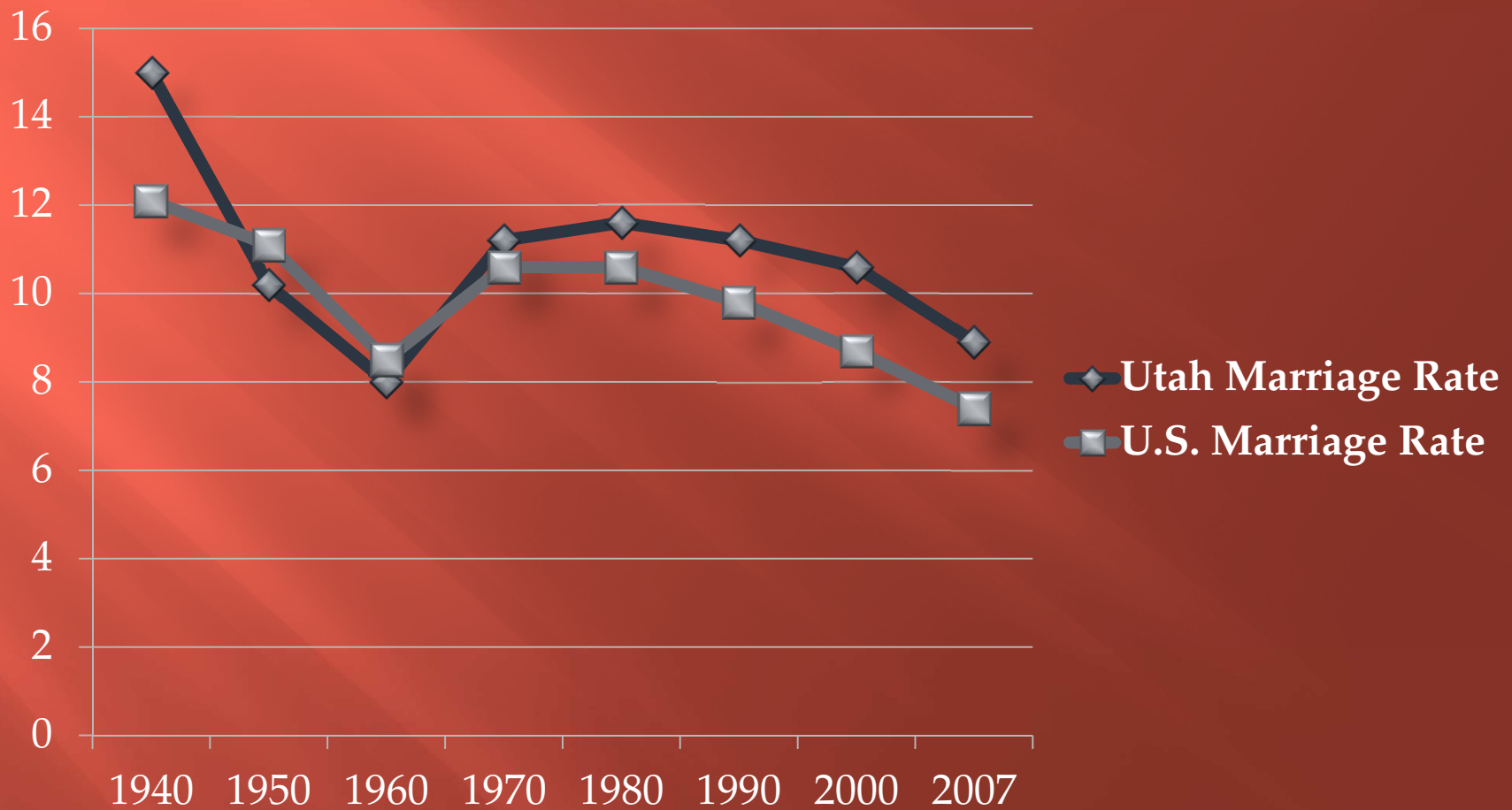
- Fault/No Fault
- Alimony
- Child Support
 - Calculations
- Custody
 - Sole Custody

- Joint Legal Custody
- Joint Physical Custody
- Child's Best Interests
- Parent-time
 - Minimum Schedule
 - Relocation
 - Grandparent
 - Non-Parents

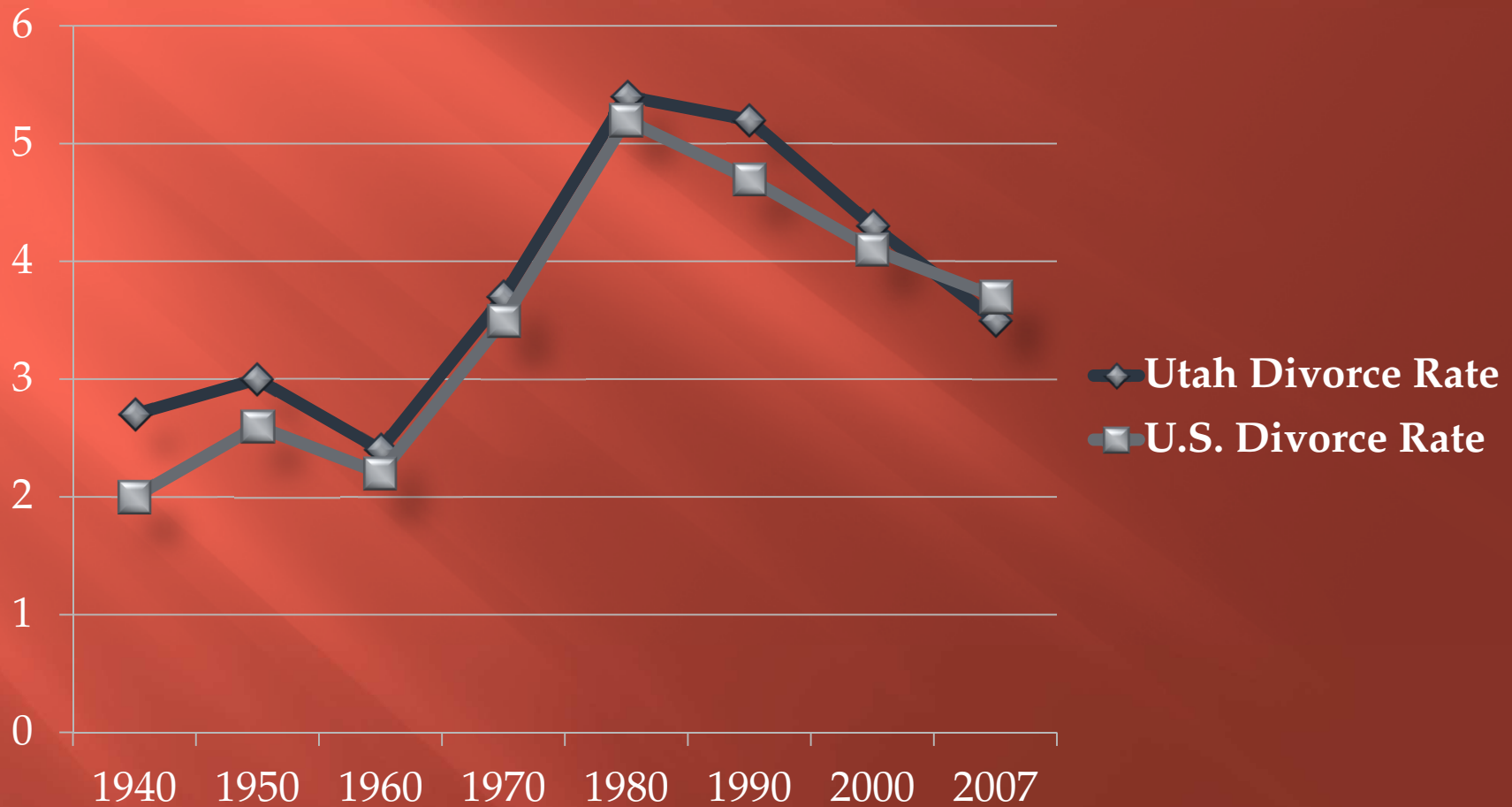
State-wide Education

- Orientation
- Education
- Expedited Parent-time Enforcement

Utah and U.S. Marriages Per 1,000 Population

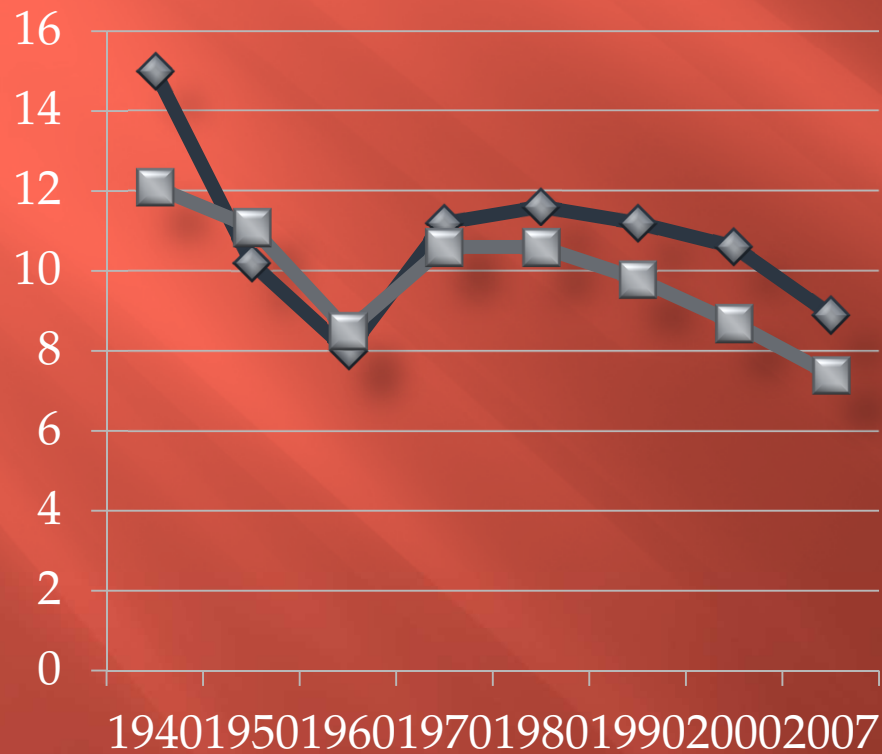


Utah and U.S. Divorces Per 1,000 Population

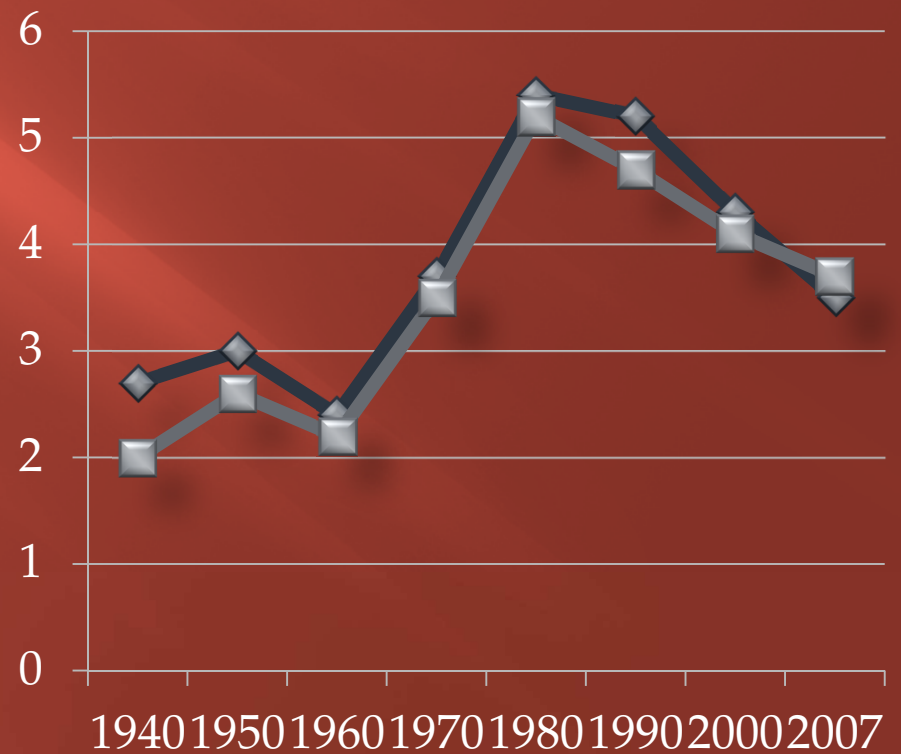


Marriage and Divorce Rates

MARRIAGE RATES

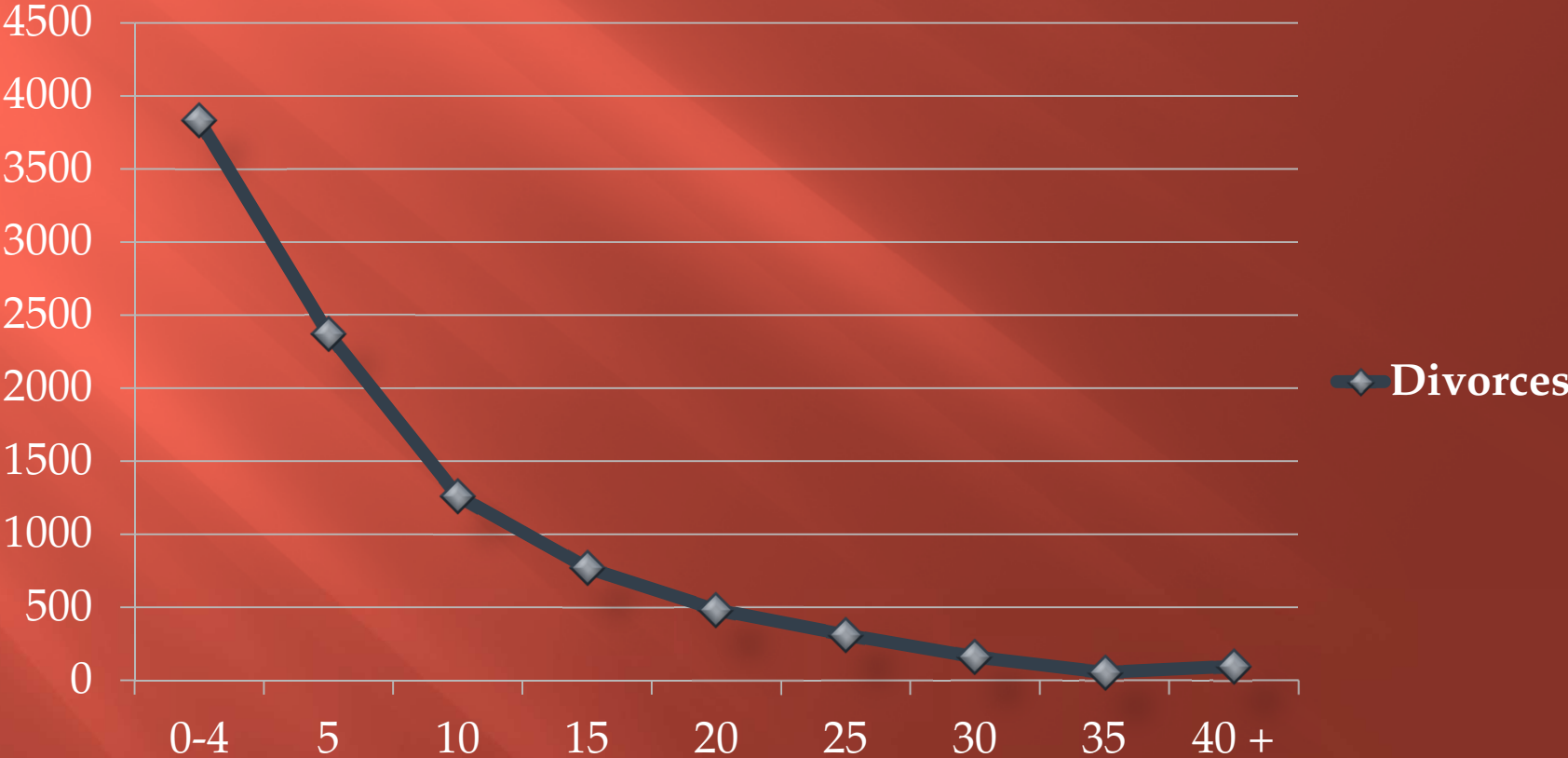


DIVORCE RATES

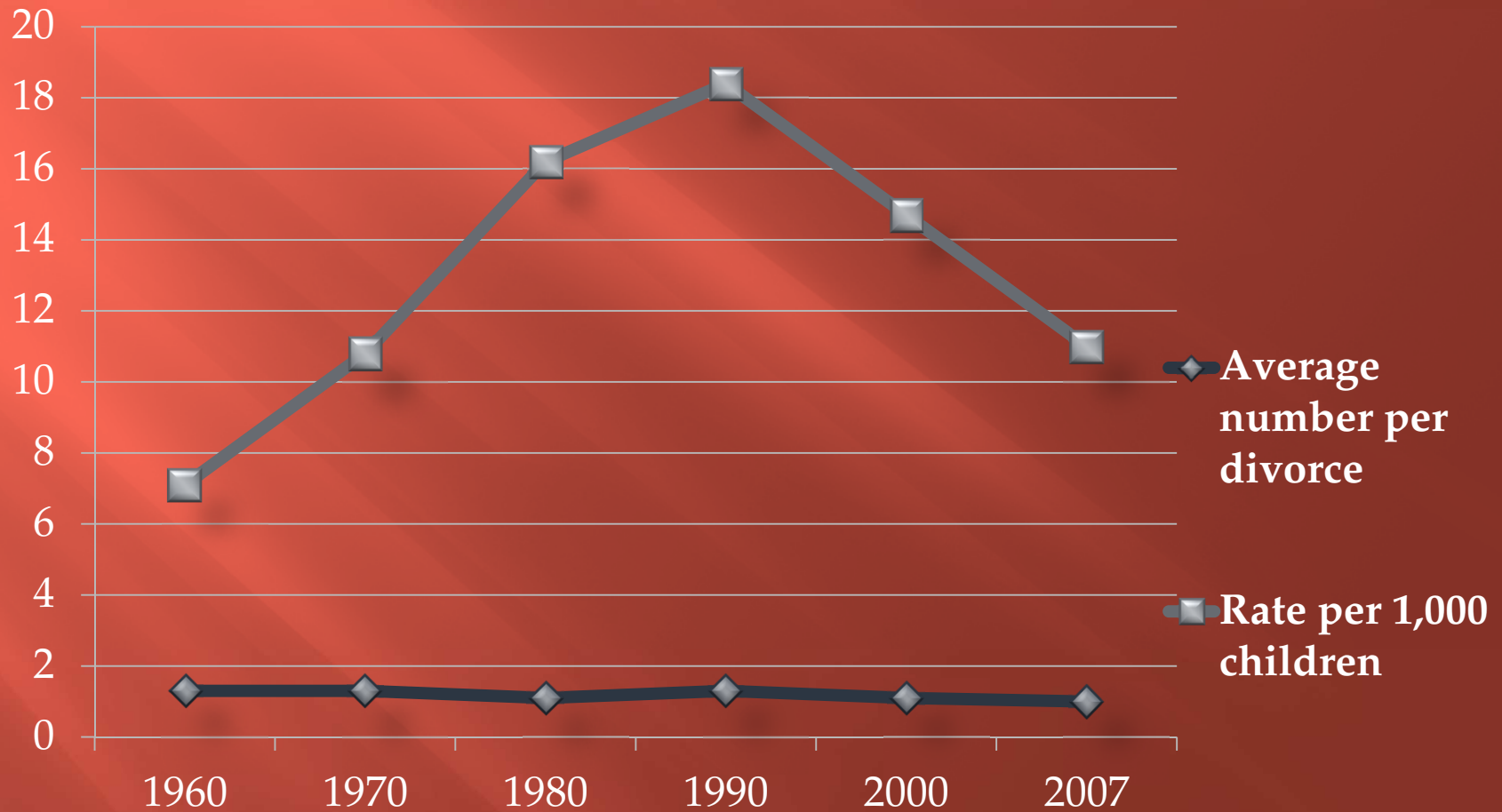


Divorce By Duration of Marriage

Divorces



Utah Children of Divorce



Marriage

CIVIL

Parties are eligible for a civil marriage if both parties:

- are eligible under state law to be married;
- obtain a marriage license; and
- if the marriage is solemnized by a person authorized by state law.

COMMON LAW

Parties are eligible for a common law marriage, if during the relationship, or within one year following the termination of the relationship, a court finds that both parties:

- are eligible under state law to be married;
- have cohabited; and
- have mutually assumed the rights, duties, and obligations of marriage.

What About Accidents?

Married Under Mistaken Belief . . .

Person who solemnized your marriage was authorized, but was not?

Spouse was dead, when he/she was not?

Divorce was final, when it was not?



When a Spouse Lies, Steals, or Cheats . . .



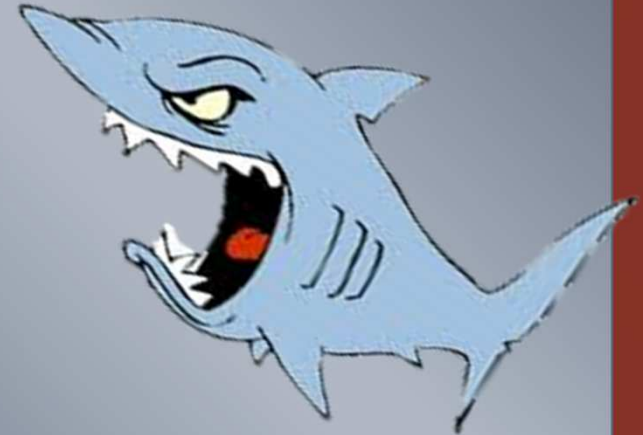
Grounds For Divorce: Fault/No Fault

FAULT

- Felony
- Adultery
- Willful desertion
- Abuse
- Drunkenness
- Impotency
- Insanity
- Separated three years

NO FAULT

- **Irreconcilable Differences**





The Exception that Swallowed the Rule

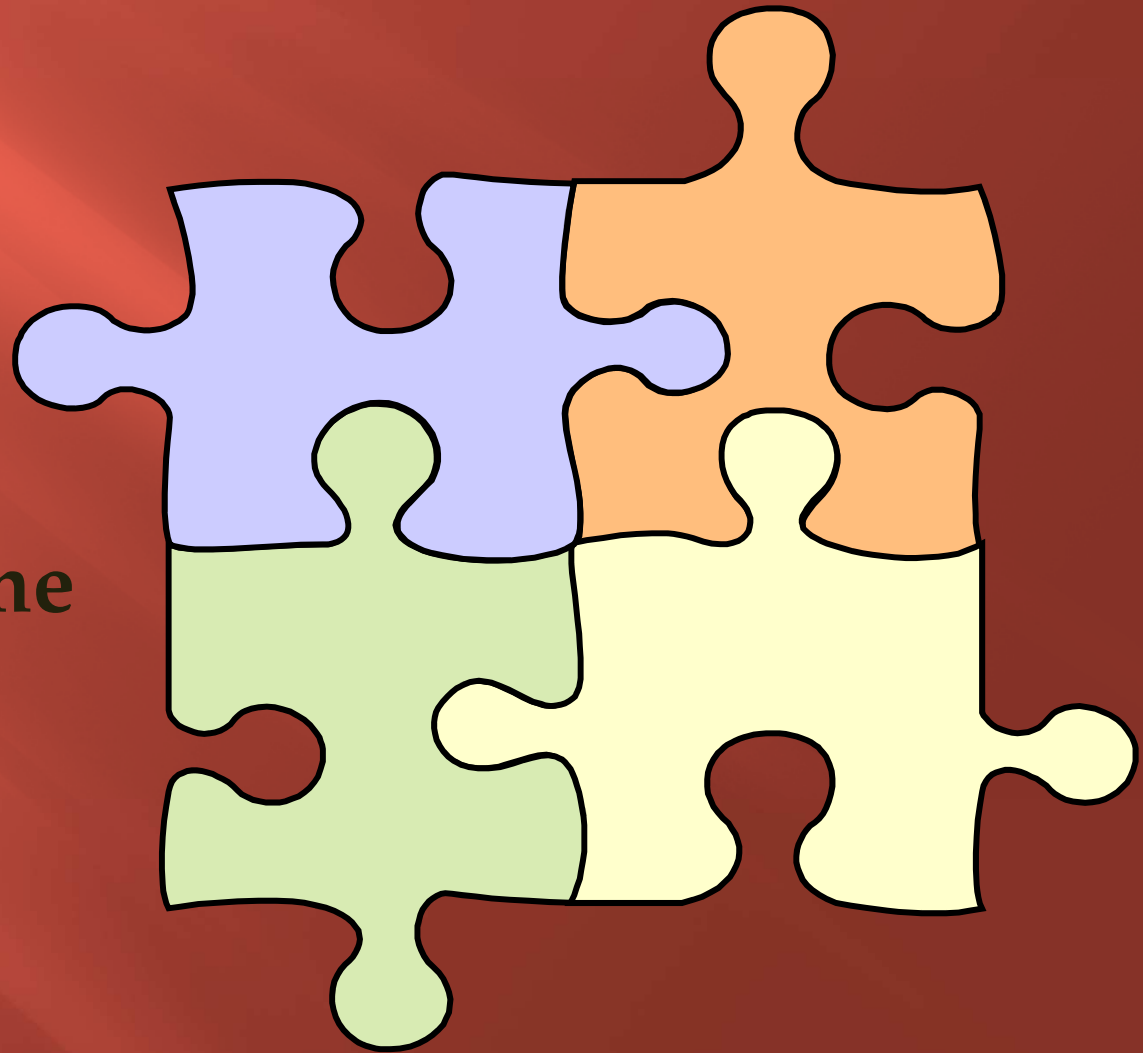
IRRECONCILABLE DIFFERENCES --

Becomes the only grounds used to obtain a divorce because:

- Least expensive;
- Easiest to prove;
- Sufficient even when one spouse does not want a divorce;
- Intended to remove acrimony from the divorce process;
- A person desperate for a divorce does not contemplate actions that he/she would not otherwise consider; and
- Fault is irrelevant when a judge makes alimony, child support, parent-time orders.

Divorce: The Difficult Pieces

- **Alimony**
- **Child Support**
- **Parent-time**
- **Custody**





Alimony



Alimony means:

- A court-ordered financial allowance, typically paid in monthly installments, that one spouse pays to the other for maintenance and support after a divorce.
- **May Include:**
 - Monies for vocational or educational training; and
 - Compensation for contributions made to the marriage that directly enhanced the earning capacity of the payor spouse.

Alimony

A Judge *shall* consider:

- financial condition and needs of the recipient;
- earning capacity of the recipient;
- ability of the payor to pay;
- length of marriage;
- who has custody of children;
- contributions made to the marriage; and
- contributions made to the earning capacity.

Alimony

A Judge *should* consider the standard of living, existing at the time of separation, in determining alimony.

A Judge *may* consider:

- *fault* in determining alimony; (Court of Appeals)
- equalizing the standards of living; and
- income of a subsequent spouse of the payor, if the judge believes the payor's improper conduct justifies that consideration.

Alimony

A Judge *may not*:

- modify alimony to address needs of the recipient spouse that did not exist at the time the decree was entered; and
- order alimony for a duration longer than the marriage existed without extenuating circumstances.

Alimony

Automatically Terminates:

- upon the remarriage of the receiving spouse;
- upon the death of the payor spouse; and
- if the receiving spouse is cohabitating (engaging in sexual relations) with another person.



Child Support



Child Support means:

- A court ordered financial payment to be made by one parent to the other for the expenses incurred for children of the marriage.
- Child Support is a legal obligation that is enforceable both civilly and criminally.

Child Support

Child Support Calculation:

- combine the adjusted gross incomes of the parents and determine the base combined child support obligation using the base combined child support obligation table; and
- calculate each parent's proportionate share of the base combined child support obligation by multiplying the combined child support obligation by each parent's percentage of combined adjusted gross income.

Child Support Tables

Income \$33,500 – \$48,000

| Monthly Income | Number of Children | | | | | |
|-------------------|--------------------|----------|----------|----------|----------|----------|
| | <u>1</u> | <u>2</u> | <u>3</u> | <u>4</u> | <u>5</u> | <u>6</u> |
| 2,801 - 2,900 | 475 | 770 | 891 | 994 | 1,093 | 1,189 |
| 2,901 - 3,000 | 485 | 794 | 918 | 1,024 | 1,126 | 1,225 |
| 3,001 - 3,100 | 496 | 817 | 945 | 1,054 | 1,159 | 1,261 |
| 3,101 - 3,200 | 508 | 838 | 970 | 1,081 | 1,189 | 1,294 |
| 3,201 - 3,300 | 518 | 859 | 994 | 1,108 | 1,219 | 1,326 |
| 3,301 - 3,400 | 529 | 881 | 1,018 | 1,135 | 1,248 | 1,358 |
| 3,401 - 3,500 | 539 | 902 | 1,042 | 1,162 | 1,278 | 1,391 |
| 3,501 - 3,600 | 548 | 923 | 1,066 | 1,189 | 1,308 | 1,423 |
| 3,601 - 3,700 | 555 | 944 | 1,090 | 1,216 | 1,337 | 1,455 |
| 3,701 - 3,800 | 564 | 965 | 1,115 | 1,243 | 1,367 | 1,487 |
| 3,801 - 3,900 | 573 | 985 | 1,138 | 1,269 | 1,396 | 1,519 |
| 3,901 - 4,000 | 581 | 1,004 | 1,160 | 1,294 | 1,423 | 1,548 |

Child Support Tables

Income \$58,800 – \$73,200

| Monthly Income | Number of Children | | | | | |
|-------------------|--------------------|----------|----------|----------|----------|----------|
| | <u>1</u> | <u>2</u> | <u>3</u> | <u>4</u> | <u>5</u> | <u>6</u> |
| 4,901 - 5,000 | 668 | 1,175 | 1,351 | 1,506 | 1,657 | 1,803 |
| 5,001 - 5,100 | 676 | 1,189 | 1,366 | 1,523 | 1,675 | 1,823 |
| 5,101 - 5,200 | 684 | 1,203 | 1,381 | 1,540 | 1,694 | 1,843 |
| 5,201 - 5,300 | 693 | 1,217 | 1,396 | 1,557 | 1,712 | 1,863 |
| 5,301 - 5,400 | 701 | 1,227 | 1,408 | 1,570 | 1,726 | 1,878 |
| 5,401 - 5,500 | 710 | 1,238 | 1,419 | 1,582 | 1,741 | 1,894 |
| 5,501 - 5,600 | 719 | 1,248 | 1,431 | 1,595 | 1,755 | 1,909 |
| 5,601 - 5,700 | 728 | 1,259 | 1,442 | 1,608 | 1,769 | 1,925 |
| 5,701 - 5,800 | 733 | 1,269 | 1,454 | 1,621 | 1,783 | 1,940 |
| 5,801 - 5,900 | 739 | 1,280 | 1,465 | 1,634 | 1,797 | 1,956 |
| 5,901 - 6,000 | 745 | 1,290 | 1,477 | 1,647 | 1,812 | 1,971 |
| 6,001 - 6,100 | 751 | 1,302 | 1,490 | 1,661 | 1,827 | 1,988 |



Custody

Custody means:

Sole Custody

- The care, control, and maintenance of a child awarded by a court to one of the parents in a divorce.

Joint Physical

- The child stays with each parent overnight for more than 30% of the year, and both parents contribute to the expenses of the child in addition to paying child support.

Joint Legal Custody

- Both parents share the rights, privileges, duties, and powers of a parent.

Custody

State Policy:

There is neither a preference nor a presumption for or against sole custody;

The court shall consider joint custody but may award any form of custody which is determined to be in the best interests of the child; and

The family is allowed the widest discretion to choose a parenting plan that is in the best interest of the child.

The Best Interest of the Child

Factors a court shall consider in determining the custody of minor children in a divorce.

These factors change depending on the type of custody being considered.

Sole Custody

A Child's Best Interests:

- Which parent is most likely to act in the best interest of the child, including allowing the child frequent and continuing contact with the noncustodial parent;
- The extent of bonding between the parent and child, meaning the depth, quality, and nature of the relationship; and
- The past conduct and demonstrated moral standards of each parent.

Joint Custody

A Child's Best Interests

Will both parents:

- cooperate;
- share decisions;
- place the child's needs first;
- share the love, affection and contact with the child; and
- protect the child from conflict.



Joint Custody

A Child's Best Interests

Will the child's physical, psychological, and emotional needs be met by joint custody?

Did both parents participate in raising the child before the divorce?

Is there a history of, or potential for, child abuse, spouse abuse, or kidnapping?

Is there geographical proximity between the homes of the parents?



Parent-time (Visitation)

Parent-time means:

Time that a noncustodial parent is entitled by court order to spend with his or her child after a divorce.

Parent-time is a legal right that is enforceable by court order. Parent-time is not enforceable by criminal penalty.

Parent-time

State Policy:

Absent a showing of real harm, each parent is entitled to frequent, meaningful, and continuing access with his or her children following divorce.

Child support and parent-time are independent. One parent may not withhold the one because the other parent refuses to comply with the other.

A mutually agreed upon parenting plan is preferred.



Parent-time

State Policy:

If divorcing parents are unable to agree upon a parenting plan, the state will impose a minimum parent-time schedule as follows:

Minimum Schedule:

- One weekday evening;
- Alternating weekends; and
- Holidays.



Parent-time

ODD YEAR HOLIDAYS

- *Child's Birthday
- MLK
- Spring Break
- July 4
- Labor Day
- Fall Break
- Veterans Day
- ½ Christmas

EVEN YEAR HOLIDAYS

- Child's Birthday
- Washington & Lincoln Day
- Memorial Day
- July 24
- Columbus Day
- Halloween
- Thanksgiving
- ½ Christmas

*The day before or the day after the child's actual birthday.

Parent-time

EVERY YEAR FATHER

EVERY YEAR MOTHER

Father's Day

Mother's Day

**NON-
CUSTODIAL**

CUSTODIAL

Extended time
Up to 4 Weeks
during
summer break



Extended time
Up to 2 weeks
during
summer break

Parent-time Enforcement

Toothless Tiger

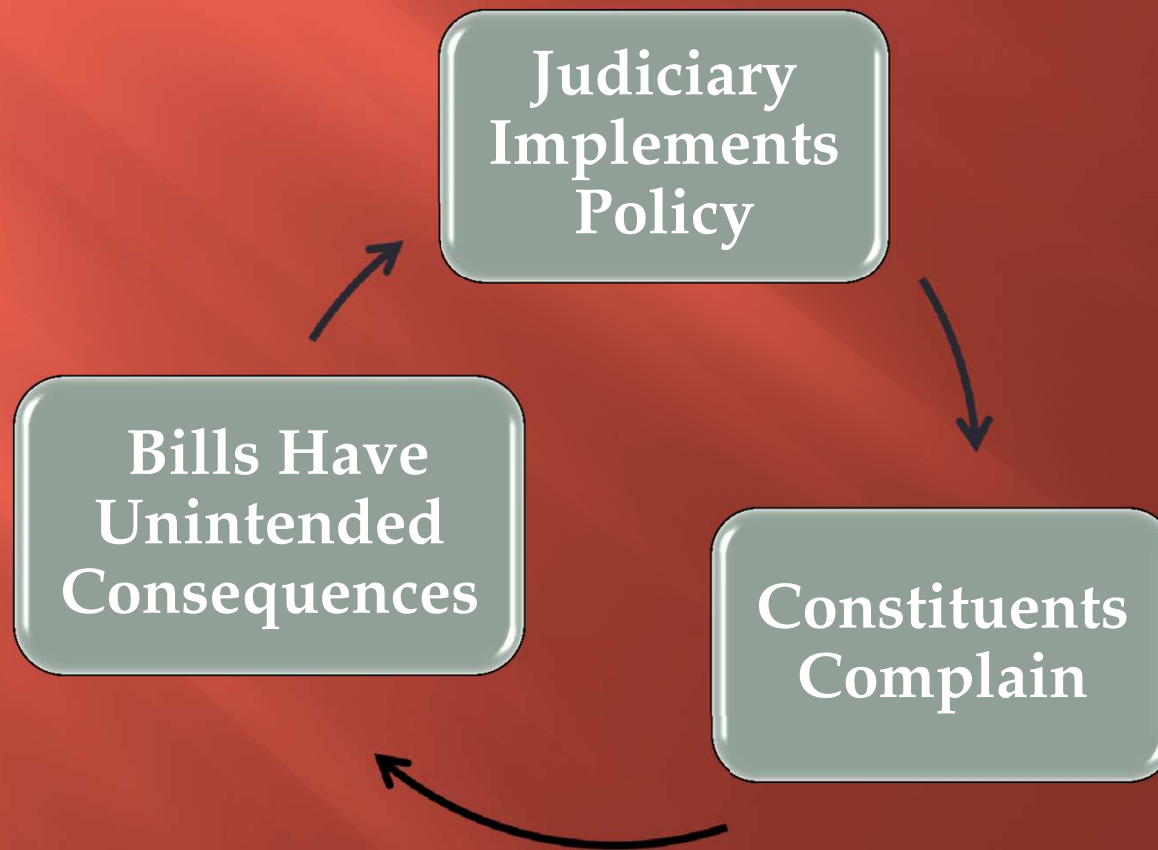
A Judge may authorize a peace officer to enforce court-ordered visitation or parent-time.



State-wide Programs

- **Divorce Orientation**
- **Divorce Education**
- **Expedited Parent-time**

Legislature Establishes Policy



If you Must Lie, Steal, or Cheat

Lie next to your spouse every night of your life;

Steal the heart of your spouse, and never let it go; and

Cheat death, because if you lie and steal properly, your spouse will cherish every additional day you live.