

DIVORCE PROCESS AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill addresses divorces.

Highlighted Provisions:

This bill:

- ▶ addresses mandatory courses before certain actions by the court;
- ▶ repeals various provisions related to divorce actions; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 30-3-4**, as last amended by Laws of Utah 2015, Chapter 45
- 30-3-11.3**, as last amended by Laws of Utah 2016, Chapter 91
- 30-3-11.4**, as last amended by Laws of Utah 2014, Chapter 347

REPEALS:

- 30-3-12**, as last amended by Laws of Utah 1969, Chapter 72
- 30-3-13.1**, as last amended by Laws of Utah 1993, Chapter 227
- 30-3-14.1**, as enacted by Laws of Utah 1969, Chapter 72
- 30-3-15.1**, as enacted by Laws of Utah 1969, Chapter 72
- 30-3-15.3**, as last amended by Laws of Utah 2015, Chapter 45
- 30-3-15.4**, as last amended by Laws of Utah 1996, Chapter 79
- 30-3-16.1**, as enacted by Laws of Utah 1969, Chapter 72
- 30-3-16.2**, as enacted by Laws of Utah 1969, Chapter 72
- 30-3-16.3**, as enacted by Laws of Utah 1969, Chapter 72

- 32 **30-3-16.4**, as enacted by Laws of Utah 1969, Chapter 72
33 **30-3-16.5**, as enacted by Laws of Utah 1969, Chapter 72
34 **30-3-16.6**, as enacted by Laws of Utah 1969, Chapter 72
35 **30-3-16.7**, as last amended by Laws of Utah 2011, Chapter 297
36 **30-3-17**, as last amended by Laws of Utah 2011, Chapter 297
37 **30-3-17.1**, as last amended by Laws of Utah 2011, Chapter 297
38 **30-3-18**, as last amended by Laws of Utah 2012, Chapter 404
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40 *Be it enacted by the Legislature of the state of Utah:*

41 Section 1. Section **30-3-4** is amended to read:

42 **30-3-4. Pleadings -- Decree -- Use of affidavit -- Private records.**

43 (1) (a) The complaint shall be in writing and signed by the petitioner or petitioner's
44 attorney.

45 (b) A decree of divorce may not be granted upon default or otherwise except upon legal
46 evidence taken in the cause. If the decree is to be entered upon the default of the respondent,
47 evidence to support the decree may be submitted upon the affidavit of the petitioner with the
48 approval of the court.

49 (c) If the petitioner and the respondent have a child or children, a decree of divorce
50 may not be granted until both parties have attended the mandatory course described in Section
51 30-3-11.3 or 30-3-11.4, and have presented a certificate of course completion to the court. The
52 court may waive this requirement, on its own motion or on the motion of one of the parties, if it
53 determines course attendance and completion are not necessary, appropriate, feasible, or in the
54 best interest of the parties.

55 (d) All hearings and trials for divorce shall be held before the court or the court
56 commissioner as provided by Section 78A-5-107 and rules of the Judicial Council. The court
57 or the commissioner in all divorce cases shall enter the decree upon the evidence or, in the case
58 of a decree after default of the respondent, upon the petitioner's affidavit.

59 (2) (a) A party to an action brought under this title or to an action under Title 78B,
60 Chapter 12, Utah Child Support Act, Title 78B, Chapter 13, Utah Uniform Child Custody
61 Jurisdiction and Enforcement Act, Title 78B, Chapter 14, Utah Uniform Interstate Family
62 Support Act, Title 78B, Chapter 15, Utah Uniform Parentage Act, or to an action to modify or

63 enforce a judgment in the action may file a motion to have the file other than the final
64 judgment, order, or decree classified as private.

65 (b) If the court finds that there are substantial interests favoring restricting access that
66 clearly outweigh the interests favoring access, the court may classify the file, or any part
67 thereof other than the final order, judgment, or decree, as private. An order classifying part of
68 the file as private does not apply to subsequent filings.

69 (c) The record is private until the judge determines it is possible to release the record
70 without prejudice to the interests that justified the closure. Any interested person may petition
71 the court to permit access to a record classified as private under this section. The petition shall
72 be served on the parties to the closure order.

73 Section 2. Section **30-3-11.3** is amended to read:

74 **30-3-11.3. Mandatory educational course for divorcing parents -- Purpose --**
75 **Curriculum -- Exceptions.**

76 (1) The Judicial Council shall approve and implement a mandatory course for
77 divorcing parents in all judicial districts. The mandatory course is designed to educate and
78 sensitize divorcing parties to their children's needs both during and after the divorce process.

79 (2) The Judicial Council shall adopt rules to implement and administer this program.

80 (3) (a) As a prerequisite to receiving a divorce decree, both parties are required to
81 attend a mandatory course on their children's needs after filing a complaint for divorce and
82 receiving a docket number, unless waived under Section 30-3-4. If that requirement is waived,
83 the court may permit the divorce action to proceed.

84 (b) With the exception of a temporary restraining order pursuant to Rule 65, Utah
85 Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order
86 related to the divorce until the moving party completes the mandatory educational course for
87 divorcing parents required by this section.

88 (4) The court may require unmarried parents to attend this educational course when
89 those parents are involved in a visitation or custody proceeding before the court.

90 (5) The mandatory course shall instruct both parties:

91 (a) about divorce and its impacts on:

92 (i) their child or children;

93 (ii) their family relationship; and

94 (iii) their financial responsibilities for their child or children; and

95 (b) that domestic violence has a harmful effect on children and family relationships.

96 (6) The course may be provided through live instruction, video instruction, or an online
97 provider. The online and video options must be formatted as interactive presentations that
98 ensure active participation and learning by the parent.

99 (7) The Administrative Office of the Courts shall administer the course pursuant to
100 Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts and
101 organize the program in each of Utah's judicial districts. The contracts shall provide for the
102 recoupment of administrative expenses through the costs charged to individual parties,
103 pursuant to Subsection (9).

104 (8) A certificate of completion constitutes evidence to the court of course completion
105 by the parties.

106 (9) (a) Each party shall pay the costs of the course to the independent contractor
107 providing the course at the time and place of the course. A fee of \$8 shall be collected, as part
108 of the course fee paid by each participant, and deposited in the Children's Legal Defense
109 Account, described in Section 51-9-408.

110 (b) Each party who is unable to pay the costs of the course may attend the course
111 without payment upon a prima facie showing of impecuniosity as evidenced by an affidavit of
112 impecuniosity filed in the district court. In those situations, the independent contractor shall be
113 reimbursed for its costs from the appropriation to the Administrative Office of the Courts for
114 "Mandatory Educational Course for Divorcing Parents Program." Before a decree of divorce
115 may be entered, the court shall make a final review and determination of impecuniosity and
116 may order the payment of the costs if so determined.

117 (10) Appropriations from the General Fund to the Administrative Office of the Courts
118 for the "Mandatory Educational Course for Divorcing Parents Program" shall be used to pay
119 the costs of an indigent parent who makes a showing as provided in Subsection (9)(b).

120 (11) The Administrative Office of the Courts shall adopt a program to evaluate the
121 effectiveness of the mandatory educational course. Progress reports shall be provided if
122 requested by the Judiciary Interim Committee.

123 Section 3. Section **30-3-11.4** is amended to read:

124 **30-3-11.4. Mandatory orientation course for divorcing parties -- Purpose --**

125 **Curriculum -- Exceptions.**

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

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

132 (3) (a) With the exception of a temporary restraining ~~[orders]~~ order pursuant to Rule
133 65, Utah Rules of Civil ~~[Procedures]~~ Procedure, a party may file, but the court may not hear,
134 ~~[temporary orders until the party seeking temporary orders has completed]~~ a motion for an
135 order related to the divorce or petition for temporary separation, until the moving party
136 completes the divorce orientation course.

137 (b) Notwithstanding Subsection (3)(a), both parties shall attend a divorce orientation
138 course before a divorce decree may be entered, unless waived by the court under Section
139 30-3-4.

140 (4) The respondent shall attend the divorce orientation course no more than 30 days
141 after being served with a petition for divorce.

142 (5) The clerk of the court shall provide notice to a petitioner of the requirement for the
143 course, and information regarding the course shall be included with the petition or motion,
144 when served on the respondent.

145 (6) The divorce orientation course shall be neutral, unbiased, at least one hour in
146 duration, and include:

147 (a) options available as alternatives to divorce;

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

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

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

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

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

154 (i) mediation;

155 (ii) collaborative law; and

156 (iii) litigation; and

157 (g) a discussion of post-divorce resources.

158 (7) The course may be provided in conjunction with the mandatory course for
159 divorcing parents required by Section 30-3-11.3.

160 (8) The Administrative Office of the Courts shall administer the course pursuant to
161 Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts.

162 (9) The course may be through live instruction, video instruction, or through an online
163 provider.

164 (10) (a) ~~[Each]~~ A participant shall pay the costs of the course, which may not exceed
165 \$30, to the independent contractor providing the course at the time and place of the course.

166 (b) A petitioner who attends a live instruction course within 30 days of filing may not
167 be charged more than \$15 for the course.

168 (c) A respondent who attends a live instruction course within 30 days of being served
169 with a petition for divorce may not be charged more than \$15 for the course.

170 ~~[(a)]~~ (d) A fee of \$5 shall be collected, as part of the course fee paid by each
171 participant, and deposited in the Children's Legal Defense Account described in Section
172 51-9-408.

173 ~~[(b)]~~ (e) A participant who is unable to pay the costs of the course may attend without
174 payment and request an Affidavit of Impecuniosity from the provider to be filed with the
175 petition or motion. The provider shall be reimbursed for its costs by the Administrative Office
176 of the Courts. A petitioner who is later determined not to meet the qualifications for
177 impecuniosity may be ordered to pay the costs of the course.

178 (11) Appropriations from the General Fund to the Administrative Office of the Courts
179 for the divorce orientation course shall be used to pay the costs of an indigent petitioner who is
180 determined to be impecunious as provided in Subsection (10)~~[(b)]~~(e).

181 (12) The Online Court Assistance Program shall include instructions with the forms for
182 divorce ~~[which]~~ that inform the petitioner of the requirement of this section.

183 (13) ~~[Both parties shall attend a divorce orientation course before a divorce decree may
184 be entered, unless waived by the court.]~~ A certificate of completion constitutes evidence to the
185 court of course completion by the parties.

186 (14) It shall be an affirmative defense in all divorce actions that the divorce orientation

187 requirement was not complied with, and the action may not continue until a party has
188 complied.

189 (15) The Administrative Office of the Courts shall adopt a program to evaluate the
190 effectiveness of the mandatory educational course. Progress reports shall be provided if
191 requested by the Judiciary Interim Committee.

192 Section 4. **Repealer.**

193 This bill repeals:

194 Section **30-3-12, Courts to exercise family counseling powers.**

195 Section **30-3-13.1, Establishment of family court division of district court.**

196 Section **30-3-14.1, Designation of judges -- Terms.**

197 Section **30-3-15.1, Appointment of domestic relations counselors, family court
198 commissioner, and assistants and clerks.**

199 Section **30-3-15.3, Commissioners -- Powers.**

200 Section **30-3-15.4, Salaries and expenses.**

201 Section **30-3-16.1, Jurisdiction of family court division -- Powers.**

202 Section **30-3-16.2, Petition for conciliation.**

203 Section **30-3-16.3, Contents of petition.**

204 Section **30-3-16.4, Procedure upon filing of petition.**

205 Section **30-3-16.5, Fees.**

206 Section **30-3-16.6, Information not available to public.**

207 Section **30-3-16.7, Effect of petition -- Pendency of action.**

208 Section **30-3-17, Power and jurisdiction of judge.**

209 Section **30-3-17.1, Proceedings considered confidential -- Written evaluation by
210 counselor.**

211 Section **30-3-18, Waiting period for hearing after filing for divorce -- Exemption --
212 Use of counseling and education services not to be construed as condonation or
213 promotion.**