Effective 9/1/2024

Part 4
Divorce

81-4-401 Definitions for part.

As used in this part:

(1) "Cohabitation" means the same as the term, "cohabit," is defined in Section 81-4-501.

(2) "Mandatory courses" means:

(a) the mandatory divorce orientation course described in Section 81-4-105; and

(b) the mandatory parenting course described in Section 81-9-103.

(3) "Petitioner" means the individual who brings a petition for divorce.

(4) "Respondent" means the individual against whom a petition for divorce is brought.

Enacted by Chapter 366, 2024 General Session

81-4-402 Petition for divorce -- Divorce proceedings -- Temporary orders.

(1) An individual may bring a petition for divorce if:

(a) the individual or the individual's spouse is an actual and bona fide resident of the county where the petition is filed for at least 90 days before the day on which the petition is filed;

(b) the individual is a member of the armed forces of the United States and the individual is stationed under military orders in this state for at least 90 days before the day on which the petition is filed; or

(c) both parties to the marriage have consented to personal jurisdiction for divorce or annulment under Subsection 81-2-303(5)(a)(ii).

(2) A divorce action shall be commenced and conducted in accordance with this chapter and the Utah Rules of Civil Procedure.

(3)

(a) The court may not enter a decree of divorce until 30 days after the day on which the petition is filed, unless the court finds that extraordinary circumstances exist.

(b) The court may make interim orders as the court considers just and equitable before the expiration of the 30-day period described in Subsection (3)(a).

(4)

(a) If the parties to the divorce action have a minor child, the parties shall attend the mandatory courses:

(i) for the petitioner, within 60 days after the day on which the petition is filed; and

(ii) for the respondent, within 30 days after the day on which the respondent is served.

(b) If the parties to a divorce action do not have a minor child, the parties may choose to attend the mandatory divorce orientation course described in Section 81-4-105.

(c) The clerk of the court shall provide notice to a petitioner of the requirement for the mandatory courses.

(d) A petition shall include information regarding the mandatory courses when the petition is served on the respondent.

(5) For a party that is unable to pay the costs of the mandatory courses, and before the court enters a decree of divorce in the action, the court shall:

(a) make a final determination of indigency; and

(b) order the party to pay the costs of the mandatory courses if the court determines the party is not indigent.

(6)
(a) Except for a temporary restraining order under Rule 65A of the Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the divorce until the moving party completes the mandatory courses.
(b) It is an affirmative defense in a divorce action that a party has not completed the mandatory courses and the action may not continue until a party has complied with the mandatory courses.
(7)
(a) Notwithstanding Subsections (4) and (6)(b), the court may waive the requirement that the parties attend the mandatory courses, on the court's own motion or on the motion of one of the parties, if the court determines course attendance and completion are not necessary, appropriate, or feasible, or in the best interest of the parties.
(b) If the requirement is waived, the court may permit the divorce action to proceed.
(8) The use of counseling, mediation, and education services provided under this part may not be construed as condoning or promoting divorce.

Enacted by Chapter 366, 2024 General Session

81-4-403 Mediation requirement.
(1) There is established a mandatory domestic mediation program to help reduce the time and tensions associated with obtaining a divorce.
(2)
(a) If there are any remaining contested issues after the filing of a response to a petition for divorce, the parties shall participate in good faith in at least one session of mediation.
(b) The requirement described in Subsection (2)(a) does not preclude the entry of pretrial orders before mediation takes place.
(3) The parties shall use a mediator qualified to mediate domestic disputes under criteria established by the Judicial Council in accordance with Section 78B-6-205.
(4) Unless otherwise ordered by the court or the parties agree upon a different payment arrangement, the cost of mediation shall be divided equally between the parties.
(5) The director of dispute resolution programs for the courts, the court, or the mediator may excuse either party from the requirement to mediate for good cause.
(6) A mediation described in this section shall be conducted in accordance with the Utah Rules of Court-Annexed Alternative Dispute Resolution.

Renumbered and Amended by Chapter 366, 2024 General Session

81-4-404 Allegations of child abuse or child sexual abuse in a divorce proceeding -- Investigation.
(1) When an allegation of child abuse or child sexual abuse is made in a divorce proceeding, or a request for modification of a divorce decree, that implicates a party, the court, after making an inquiry, may order that an investigation be conducted by the Division of Child and Family Services in accordance with Title 80, Chapter 2, Child Welfare Services, and Title 80, Chapter 2a, Removal and Protective Custody of a Child.
(2) A final award of custody or parent-time may not be rendered until a report on that investigation, consistent with Section 80-2-1005, is received by the court.
(3) The Division of Child and Family Services shall conduct an investigation described in Subsection (1) within 30 days of the court's notice and request for an investigation.

(4) In reviewing a report described in Subsection (2), the court shall comply with Sections 78A-2-703, 78A-2-705, and 81-5-612.

Amended by Chapter 426, 2025 General Session

81-4-405 Grounds for divorce.

(1) A court may order the dissolution of a marriage contract between the petitioner and the respondent on the grounds of:
- (a) impotency of the respondent at the time of marriage;
- (b) adultery committed by the respondent subsequent to marriage;
- (c) willful desertion of the petitioner by the respondent for more than one year;
- (d) willful neglect of the respondent to provide for the petitioner the common necessaries of life;
- (e) habitual drunkenness of the respondent;
- (f) conviction of the respondent for a felony;
- (g) cruel treatment of the petitioner by the respondent to the extent of causing bodily injury or great mental distress to the petitioner;
- (h) irreconcilable differences of the marriage;
- (i) incurable insanity; or
- (j) when the petitioner and respondent have lived separately under a decree of separate maintenance of any state for three consecutive years without cohabitation.

(2) A decree of divorce granted under Subsection (1)(j) does not affect the liability of either party under any provision for separate maintenance previously granted.

(3)
- (a) A court may not order the dissolution of a marriage contract between the petitioner and the respondent on the grounds of insanity unless:
  - (i) the respondent has been adjudged insane by the appropriate authorities of this or another state prior to the commencement of the action; and
  - (ii) the court finds by the testimony of competent witnesses that the insanity of the respondent is incurable.
- (b) The court shall appoint for the respondent a guardian ad litem who shall protect the interests of the respondent.
- (c) A copy of the summons and petition shall be served on:
  - (i) the respondent in person or by publication, as provided by the laws of this state in other actions for divorce, or upon the respondent's guardian ad litem; and
  - (ii) the county attorney for the county where the action is prosecuted.
- (d) The county attorney shall:
  - (i) investigate the merits of the case;
  - (ii) if the respondent resides out of this state, take depositions as necessary;
  - (iii) attend the proceedings; and
  - (iv) make a defense as is just to protect the rights of the respondent and the interests of the state.
- (e) The petitioner or respondent may:
  - (i) if the respondent resides in this state, upon notice, have the respondent brought into the court at trial; or
  - (ii) have an examination of the respondent by two or more competent physicians to determine the mental condition of the respondent.
- (f) For the purpose described in Subsection (3)(e), a party may have leave from the court to enter any asylum or institution where the respondent may be confined.

(g) The court shall apportion the costs of court in this action.

Renumbered and Amended by Chapter 366, 2024 General Session

81-4-406 Decree of divorce -- When decree becomes absolute -- Remarriage -- Jurisdiction to modify a decree for a child born after the decree.

(1)
(a) The court shall enter a decree of divorce upon the evidence or the petitioner's affidavit in the case of default as described in Subsection (1)(b).
(b) A court may not grant a divorce upon default, unless there is evidence to support a decree of divorce upon an affidavit by the petitioner as provided by Rule 104 of the Utah Rules of Civil Procedure.

(2) Unless the requirement is waived by the court under Subsection 81-4-402(5), a court may not grant a decree of divorce for parties with a minor child until:
(a) both parties have attended the mandatory courses described in Sections 81-4-105 and 81-4-106; and
(b) both parties have presented a certificate of course completion for each course to the court.

(3) In a decree of divorce, the court shall:
(a) specify which party is responsible for the payment of joint debts, obligations, or liabilities of the parties contracted or incurred during marriage in accordance with Section 15-4-6.5;
(b) require the parties to notify respective creditors or obligees, regarding the court's division of debts, obligations, or liabilities and regarding the parties' separate and current addresses in accordance with Section 15-4-6.5;
(c) provide for the enforcement of the orders described in Subsections (1)(a) and (b);
(d) if a party owns a life insurance policy or an annuity contract, include an acknowledgment by the court that the party:
(i) has reviewed and updated, where appropriate, the list of beneficiaries;
(ii) has affirmed that those listed as beneficiaries are in fact the intended beneficiaries after the divorce becomes final; and
(iii) understands that, if no changes are made to the policy or contract, the beneficiaries currently listed will receive any funds paid by the insurance company under the terms of the policy or contract; and
(e) if the parties have a child as defined in Section 81-6-101, include:
(i) an order for child support and medical expenses as described in Chapter 6, Child Support;
(ii) a provision in the child support order that requires payment of an ongoing expense for child care subject to the procedures and requirements of Section 81-6-209.5; and
(iii) a statement providing notice that the Office of Recovery Services provides services to individuals who are seeking assistance in the collection or enforcement of child support orders.

(4) The court may include in the divorce decree any equitable orders relating to:
(a) the parties, including any alimony to be awarded to a party in accordance with Part 5, Spousal Support;
(b) a child of the parties; and
(c) any property, debts, or obligations.

(5) A decree of divorce becomes absolute:
(a) on the date it is signed by the court and entered by the clerk in the register of actions;
(b) at the expiration of a period of time the court may specifically designate, unless an appeal or other proceedings for review are pending;

(c) if an appeal is taken, when the decree is affirmed; or
(d) when the court, before the decree becomes absolute, for sufficient cause otherwise orders.

(6) The court, upon application or on the court's own motion for good cause shown, may waive, alter, or extend a designated period of time before the decree becomes absolute, but not to exceed six months from the signing and entry of the decree.

(7) A party to a divorce proceeding may not marry another individual other than the other party for whom the divorce was granted until the party's divorce becomes absolute.

(8) The court has jurisdiction to modify a decree of divorce to address child support, parent-time, and other matters related to a minor child born to the parties after the decree of divorce is entered.

Amended by Chapter 479, 2025 General Session