

Representative Lorie D. Fowlke proposes the following substitute bill:

DIVORCE ORIENTATION

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lorie D. Fowlke

Senate Sponsor: Curtis S. Bramble

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;
- ▶ 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



26 **Utah Code Sections Affected:**

27 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

32

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 an action for a temporary separation order without filing a
37 petition for divorce by filing a petition for temporary separation and motion for temporary
38 orders if:

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

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

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

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

45 (b) the case is dismissed.

46 (3) Both parties shall attend the divorce orientation course described in Section
47 30-3-11.4 within 60 days of the filing of the petition, for petitioner, and within 45 days of being
48 served, for respondent.

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

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

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

55 **30-3-11.4. Mandatory orientation course for divorcing parties -- Purpose --**
56 **Curriculum -- Exceptions.**

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

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

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

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

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

68 (a) options available as alternatives to divorce;

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

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

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

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

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

75 (i) mediation;

76 (ii) collaborative law; and

77 (iii) litigation.

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

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

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

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

86 (b) A participant who is unable to pay the costs of the course may attend without
87 payment and request an Affidavit of Impecuniosity from the provider to be filed with the

88 petition or motion. The provider shall be reimbursed for its costs by the Administrative Office
89 of the Courts. A petitioner who is later determined not to meet the qualifications for
90 impecuniosity may be ordered to pay the costs of the course.

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

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

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

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

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

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

106 **78-7-35. Civil fees of the courts of record -- Courts complex design.**

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

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

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

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

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

115 (iv) \$155 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter
116 4, Separate Maintenance[-]; and

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

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

- 119 (i) \$45 if the claim for damages or amount in interpleader exclusive of court costs,
120 interest, and attorney fees is \$2,000 or less; and
- 121 (ii) \$70 if the claim for damages or amount in interpleader exclusive of court costs,
122 interest, and attorney fees is greater than \$2,000.
- 123 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party
124 complaint, or other claim for relief against an existing or joined party other than the original
125 complaint or petition is:
- 126 (i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is
127 \$2,000 or less;
- 128 (ii) \$75 if the claim for relief exclusive of court costs, interest, and attorney fees is
129 greater than \$2,000 and less than \$10,000;
- 130 (iii) \$105 if the original petition is filed under Subsection (1)(a), the claim for relief is
131 \$10,000 or more, or the party seeks relief other than monetary damages; and
- 132 (iv) \$85 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,
133 Chapter 4, Separate Maintenance.
- 134 (e) The fee for filing a small claims counter affidavit is:
- 135 (i) \$35 if the claim for relief exclusive of court costs, interest, and attorney fees is
136 \$2,000 or less; and
- 137 (ii) \$50 if the claim for relief exclusive of court costs, interest, and attorney fees is
138 greater than \$2,000.
- 139 (f) The fee for depositing funds under Section 57-1-29 when not associated with an
140 action already before the court is determined under Subsection (1)(b) based on the amount
141 deposited.
- 142 (g) The fee for filing a petition is:
- 143 (i) \$75 for trial de novo of an adjudication of the justice court or of the small claims
144 department; and
- 145 (ii) \$55 for an appeal of a municipal administrative determination in accordance with
146 Section 10-3-703.7.
- 147 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or
148 petition for writ of certiorari is \$205.
- 149 (i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a

150 petition for expungement is \$65.

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

152 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
153 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
154 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
155 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
156 Act.

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

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

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

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

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

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

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

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

178 (n) The fee for filing a judgment by confession without action under Section 78-22-3 is
179 \$25.

180 (o) The fee for filing an award of arbitration for confirmation, modification, or

181 vacation under Title 78, Chapter 31a, Utah Uniform Arbitration Act, that is not part of an
182 action before the court is \$25.

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

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

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

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

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

188 (iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and

189 (v) \$150 for an estate valued at more than \$168,000.

190 (r) The fee for filing a demand for a civil jury is \$75.

191 (s) The fee for filing a notice of deposition in this state concerning an action pending in
192 another state under Utah Rule of Civil Procedure 26 is \$25.

193 (t) The fee for filing documents that require judicial approval but are not part of an
194 action before the court is \$25.

195 (u) The fee for a petition to open a sealed record is \$25.

196 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$35 in
197 addition to any fee for a complaint or petition.

198 (w) (i) The fee for a petition for authorization for a minor to marry required by Section
199 30-1-9 is \$5.

200 (ii) The fee for a petition for emancipation of a minor provided in Title 78, Chapter 3a,
201 Part 10, Emancipation, is \$50.

202 (x) The fee for a certificate issued under Section 26-2-25 is \$2.

203 (y) The fee for a certified copy of a document is \$4 per document plus 50 cents per
204 page.

205 (z) The fee for an exemplified copy of a document is \$6 per document plus 50 cents
206 per page.

207 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of
208 documents and forms and for the search and retrieval of records under Title 63, Chapter 2,
209 Government Records Access and Management Act. Fees under this Subsection (1)(aa) shall be
210 credited to the court as a reimbursement of expenditures.

211 (bb) There is no fee for services or the filing of documents not listed in this section or

212 otherwise provided by law.

213 (cc) Except as provided in this section, all fees collected under this section are paid to
214 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk
215 accepts the pleading for filing or performs the requested service.

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

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

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

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

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

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

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

242 (A) make those expenditures from unexpended and unencumbered building funds

243 already appropriated to the Capital Projects Fund; and

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

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

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

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

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

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

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

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

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

H.B. 128 1st Sub. (Buff) - 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.
