

DIVORCE ORIENTATION CLASS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jim Nielson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill requires a prospective petitioner for divorce to attend the mandatory divorce orientation course before filing a petition for divorce.

Highlighted Provisions:

This bill:

- ▶ requires a prospective petitioner for divorce to complete the mandatory divorce orientation course before filing a petition for divorce;
- ▶ requires the respondent to complete the mandatory divorce orientation course within 30 days of receipt of a petition for divorce;
- ▶ eliminates the waiver of the 90-day waiting requirement for parties who complete the mandatory divorce education course; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-11.4, as last amended by Laws of Utah 2011, Chapter 51

30-3-15.3, as last amended by Laws of Utah 2008, Chapter 3



28 30-3-18, as last amended by Laws of Utah 2011, Chapter 297
29 51-9-408, as last amended by Laws of Utah 2010, Chapter 218



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

32 Section 1. Section 30-3-11.4 is amended to read:

33 **30-3-11.4. Mandatory orientation course for divorcing parties -- Purpose --**
34 **Curriculum -- Exceptions.**

35 (1) There is established a mandatory divorce orientation course for all parties with
36 minor children who file a petition for temporary separation or for a divorce. A couple with no
37 minor children are not required, but may choose to ~~attend~~ take the course. The purpose of the
38 course shall be to educate parties about the divorce process and reasonable alternatives. The
39 course shall be provided free of charge.

40 (2) A prospective petitioner shall ~~attend~~ complete a divorce orientation course [~~no~~
41 ~~more than 60 days after~~] before filing a petition for divorce.

42 (3) The respondent shall ~~attend~~ complete the divorce orientation course [~~no more~~
43 ~~than~~] within 30 days [~~after~~] of being served with a petition for divorce.

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

47 (5) The divorce orientation course shall be neutral, unbiased, at least one hour in
48 duration, and include:

- 49 (a) options available as alternatives to divorce;
- 50 (b) resources available from courts and administrative agencies for resolving custody
51 and support issues without filing for divorce;
- 52 (c) resources available to improve or strengthen the marriage;
- 53 (d) a discussion of the positive and negative consequences of divorce;
- 54 (e) a discussion of the process of divorce;
- 55 (f) options available for proceeding with a divorce, including:
 - 56 (i) mediation;
 - 57 (ii) collaborative law; and
 - 58 (iii) litigation; and

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

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

62 (7) The Administrative Office of the Courts shall administer the course pursuant to
63 Title 63G, Chapter 6, Utah Procurement Code, through private or public contracts. The course
64 may be through live instruction, video instruction, or through an online provider.

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

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

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

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

77 [~~(10)~~ (8) The Online Court Assistance Program shall include instructions with the
78 forms for divorce which inform the petitioner of the requirement of this section.

79 [~~(11)~~ (9) Both parties shall attend a divorce orientation course before a divorce decree
80 may be entered, unless waived by the court. A certificate of completion constitutes evidence to
81 the court of course completion by the parties.

82 [~~(12)~~ (10) It shall be an affirmative defense in all divorce actions that the divorce
83 orientation requirement was not complied with, and the action may not continue until a party
84 has complied.

85 [~~(13)~~ (11) The Administrative Office of the Courts shall adopt a program to evaluate
86 the effectiveness of the mandatory educational course. Progress reports shall be provided if
87 requested [by] to the Judiciary Interim Committee.

88 Section 2. Section **30-3-15.3** is amended to read:

89 **30-3-15.3. Commissioners -- Powers.**

90 Commissioners shall:

91 (1) secure compliance with court orders;

92 (2) require [~~attendance at~~] completion of the mandatory course as provided in Section
93 30-3-11.3;

94 (3) serve as judge pro tempore, master or referee on:

95 (a) assignment of the court; and

96 (b) with the written consent of the parties:

97 (i) orders to show cause where no contempt is alleged;

98 (ii) default divorces where the parties have had marriage counseling but there has been
99 no reconciliation;

100 (iii) uncontested actions under Title 78B, Chapter 15, Utah Uniform Parentage Act;

101 (iv) actions under Title 78B, Chapter 12, Utah Child Support Act; and

102 (v) actions under Title 78B, Chapter 14, Uniform Interstate Family Support Act; and

103 (4) represent the interest of children in divorce or annulment actions, and the parties in
104 appropriate cases.

105 Section 3. Section **30-3-18** is amended to read:

106 **30-3-18. Waiting period for hearing after filing for divorce -- Exemption -- Use of**
107 **counseling and education services not to be construed as condonation or promotion.**

108 (1) Unless the court, for good cause shown and set forth in the findings, otherwise
109 orders, no hearing for decree of divorce shall be held by the court until 90 days shall have
110 elapsed from the filing of the complaint, but the court may make interim orders as may be just
111 and equitable.

112 [~~(2) The 90-day period as provided in Subsection (1) does not apply in any case where~~
113 ~~both parties have completed the mandatory educational course for divorcing parents as~~
114 ~~provided in Section 30-3-11.3.]~~

115 [(3)] (2) The use of counseling, mediation, and education services provided under this
116 chapter may not be construed as condoning the acts that may constitute grounds for divorce on
117 the part of either spouse nor of promoting divorce.

118 Section 4. Section **51-9-408** is amended to read:

119 **51-9-408. Children's Legal Defense Account.**

120 (1) There is created a restricted account within the General Fund known as the

121 Children's Legal Defense Account.

122 (2) The purpose of the Children's Legal Defense Account is to provide for programs
123 that protect and defend the rights, safety, and quality of life of children.

124 (3) The Legislature shall appropriate money from the account for the administrative
125 and related costs of the following programs:

126 (a) implementing the Mandatory Educational Course on Children's Needs for
127 Divorcing Parents relating to the effects of divorce on children as provided in Sections 30-3-4,
128 30-3-7, 30-3-10.3, 30-3-11.3, 30-3-15.3, and 30-3-18~~[-and the Mediation Pilot Program =~~
129 ~~Child Custody or Parent-time as provided in Sections 30-3-15.3 and 30-3-18]~~;

130 (b) implementing the use of guardians ad litem as provided in Sections 30-3-5.2,
131 78A-2-227, 78A-6-321, 78A-6-902, and 78B-3-102; the training of guardians ad litem and
132 volunteers as provided in Section 78A-6-902; and termination of parental rights as provided in
133 Sections 78A-6-117, 78A-6-118, and 78A-6-1103, and Title 78A, Chapter 6, Part 5,
134 Termination of Parental Rights Act. This account may not be used to supplant funding for the
135 guardian ad litem program in the juvenile court as provided in Section 78A-6-902; and

136 (c) implementing and administering the Expedited Parent-time Enforcement Program
137 as provided in Section 30-3-38.

138 (4) The following withheld fees shall be allocated only to the Children's Legal Defense
139 Account and used only for the purposes provided in Subsections (3)(a) through (c):

140 (a) the additional \$10 fee withheld on every marriage license issued in the state of Utah
141 as provided in Section 17-16-21; and

142 (b) a fee of \$4 shall be withheld from the existing civil filing fee collected on any
143 complaint, affidavit, or petition in a civil, probate, or adoption matter in every court of record.

144 (5) The Division of Finance shall allocate the money described in Subsection (4) from
145 the General Fund to the Children's Legal Defense Account.

146 (6) Any funds in excess of \$200,000 remaining in the restricted account as of June 30
147 of any fiscal year shall lapse into the General Fund.

Legislative Review Note
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Office of Legislative Research and General Counsel