

DIVORCE PROCESS AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: V. Lowry Snow

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;
- ▶ modifies the waiting period for hearing after filing for divorce; 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
- 30-3-18**, as last amended by Laws of Utah 2012, Chapter 404

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 **30-3-15.1**, as enacted by Laws of Utah 1969, Chapter 72
- 31 **30-3-15.3**, as last amended by Laws of Utah 2015, Chapter 45
- 32 **30-3-15.4**, as last amended by Laws of Utah 1996, Chapter 79
- 33 **30-3-16.1**, as enacted by Laws of Utah 1969, Chapter 72
- 34 **30-3-16.2**, as enacted by Laws of Utah 1969, Chapter 72
- 35 **30-3-16.3**, as enacted by Laws of Utah 1969, Chapter 72
- 36 **30-3-16.4**, as enacted by Laws of Utah 1969, Chapter 72
- 37 **30-3-16.5**, as enacted by Laws of Utah 1969, Chapter 72
- 38 **30-3-16.6**, as enacted by Laws of Utah 1969, Chapter 72
- 39 **30-3-16.7**, as last amended by Laws of Utah 2011, Chapter 297
- 40 **30-3-17**, as last amended by Laws of Utah 2011, Chapter 297
- 41 **30-3-17.1**, as last amended by Laws of Utah 2011, Chapter 297

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

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

45 **30-3-4. Pleadings -- Decree -- Use of affidavit -- Private records.**

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

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

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

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

62 (2) (a) A party to an action brought under this title or to an action under Title 78B,
63 Chapter 12, Utah Child Support Act, Title 78B, Chapter 13, Utah Uniform Child Custody
64 Jurisdiction and Enforcement Act, Title 78B, Chapter 14, Utah Uniform Interstate Family
65 Support Act, Title 78B, Chapter 15, Utah Uniform Parentage Act, or to an action to modify or
66 enforce a judgment in the action may file a motion to have the file other than the final
67 judgment, order, or decree classified as private.

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

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

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

77 **30-3-11.3. Mandatory educational course for divorcing parents -- Purpose --**
78 **Curriculum -- Reporting.**

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

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

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

86 the court may permit the divorce action to proceed.

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

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

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

94 (a) about divorce and its impacts on:

95 (i) their child or children;

96 (ii) their family relationship; and

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

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

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

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

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

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

113 (b) Each party who is unable to pay the costs of the course may attend the course

114 without payment upon a prima facie showing of impecuniosity as evidenced by an affidavit of
 115 impecuniosity filed in the district court. In those situations, the independent contractor shall be
 116 reimbursed for its costs from the appropriation to the Administrative Office of the Courts for
 117 "Mandatory Educational Course for Divorcing Parents Program." Before a decree of divorce
 118 may be entered, the court shall make a final review and determination of impecuniosity and
 119 may order the payment of the costs if so determined.

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

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

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

127 **30-3-11.4. Mandatory orientation course for divorcing parties -- Purpose --**
 128 **Curriculum -- Reporting.**

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

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

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

140 (b) Notwithstanding Subsection (3)(a), both parties shall attend a divorce orientation
 141 course before a divorce decree may be entered, unless waived by the court under Section

142 [30-3-4.](#)

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

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

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

150 (a) options available as alternatives to divorce;

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

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

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

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

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

157 (i) mediation;

158 (ii) collaborative law; and

159 (iii) litigation; and

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

161 (7) The course may be provided in conjunction with the mandatory course for
162 divorcing parents required by Section [30-3-11.3](#).

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

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

167 (10) (a) ~~[Each]~~ A participant shall pay the costs of the course, which may not exceed
168 \$30, to the independent contractor providing the course at the time and place of the course.

169 (b) A petitioner who attends a live instruction course within 30 days of filing may not

170 be charged more than \$15 for the course.

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

173 ~~[(a)]~~ (d) A fee of \$5 shall be collected, as part of the course fee paid by each
174 participant, and deposited in the Children's Legal Defense Account described in Section
175 [51-9-408](#).

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

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

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

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

189 (14) It shall be an affirmative defense in all divorce actions that the divorce orientation
190 requirement was not complied with, and the action may not continue until a party has
191 complied.

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

195 Section 4. Section **30-3-18** is amended to read:

196 **30-3-18. Waiting period for hearing after filing for divorce -- Exemption -- Use of**
197 **counseling and education services not to be construed as condonation or promotion.**

198 (1) Unless the court finds that extraordinary circumstances exist and otherwise orders,
199 no hearing for decree of divorce may be held by the court until [~~90~~] 30 days has elapsed from
200 the filing of the complaint, but the court may make interim orders as it considers just and
201 equitable.

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

205 **Section 5. Repealer.**

206 This bill repeals:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

222 Section **30-3-17.1, Proceedings considered confidential -- Written evaluation by**
223 **counselor.**