

Representative Carol Spackman Moss proposes the following substitute bill:

PARENTING PLAN AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carol Spackman Moss

Senate Sponsor: Chris H. Wilson

Cosponsor: Dan N. Johnson

LONG TITLE

General Description:

This bill addresses modification of a parenting plan.

Highlighted Provisions:

This bill:

- ▶ prohibits a court from granting a petition to modify a parenting plan until the parties have attended an educational course;
- ▶ provides that a court may waive the educational course requirement for a petition to modify a parenting plan if course attendance and completion are not necessary, appropriate, feasible, or in the best interests of the parties;
- ▶ creates an educational course for parties when a petition to modify a parenting plan is filed; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.



25 **Utah Code Sections Affected:**

26 AMENDS:

27 **30-3-10.8**, as last amended by Laws of Utah 2017, Chapter 224

28 **30-3-11.3**, as last amended by Laws of Utah 2018, Chapter 470

29 **30-3-11.4**, as last amended by Laws of Utah 2018, Chapter 470

30 ENACTS:

31 **30-3-11.5**, Utah Code Annotated 1953

32 **Utah Code Sections Affected by Coordination Clause:**

33 **30-3-11.5**, Utah Code Annotated 1953



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

36 Section 1. Section **30-3-10.8** is amended to read:

37 **30-3-10.8. Parenting plan -- Filing -- Modifications.**

38 (1) In any proceeding under this chapter, including actions for paternity, a party
39 requesting joint custody, joint legal or physical custody, or any other type of shared parenting
40 arrangement, shall file and serve a proposed parenting plan at the time of the filing of [~~their
41 original petition or at the time of filing their answer or counterclaim.~~];

- 42 (a) the original petition by the party; or
- 43 (b) the answer or counterclaim by the party.

44 (2) In proceedings for a modification of custody provisions or modification of a
45 parenting plan, a proposed parenting plan shall be filed and served with:

- 46 (a) the petition to modify[;]; or
- 47 (b) the answer or counterclaim to the petition to modify.

48 (3) (a) Except as provided in Subsection (3)(b) and except for a temporary restraining
49 order under Rule 65A of the Utah Rules of Civil Procedure, if a party files a petition to modify
50 under Subsection (2) that may result in modification of a parenting plan, the court may not
51 grant the petition to modify until both parties have:

- 52 (i) attended the educational course described in Section **30-3-11.5**; and
- 53 (ii) presented a certificate of completion for the educational course to the court.
- 54 (b) The court may waive the educational course requirement under Subsection (3)(a),
55 on the court's own motion or on the motion of a party, if the court determines that course

56 attendance and completion are not necessary, appropriate, feasible, or in the best interests of
57 the parties.

58 (c) If the court waives the educational course requirement under Subsection (3)(b), the
59 court may proceed with the modification action.

60 [~~(3)~~] (4) A party who files a proposed parenting plan in compliance with this section
61 may move the court for an order of default to adopt the plan if the other party fails to file a
62 proposed parenting plan as required by this section.

63 [~~(4)~~] (5) Either party may file and serve an amended proposed parenting plan according
64 to the rules for amending pleadings.

65 [~~(5)~~] (6) The parent submitting a proposed parenting plan shall attach a verified
66 statement that the plan is proposed by that parent in good faith.

67 [~~(6)~~] (7) (a) Both parents may submit a parenting plan [~~which~~] that has been agreed
68 upon.

69 (b) A verified statement, signed by both parents, shall be attached to the parenting plan.

70 [~~(7)~~] (8) If the parents file inconsistent parenting plans, the court may appoint a
71 guardian ad litem to represent the best interests of the child, who may, if necessary, file a
72 separate parenting plan reflecting the best interests of the child.

73 [~~(8)~~] (9) (a) When one or both parents are a servicemember, the parenting plan shall be
74 consistent with Subsection 30-3-10.9(10).

75 (b) If after a parenting plan is adopted, one or both parents become servicemembers, as
76 soon as practical, the parents shall amend the existing parenting plan to comply with
77 Subsection 30-3-10.9(10).

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

79 **30-3-11.3. Mandatory educational course for divorcing parents -- Curriculum --**
80 **Fee -- Reporting.**

81 (1) (a) The Judicial Council shall approve and implement a mandatory course for
82 divorcing parents in all judicial districts.

83 (b) The mandatory course is designed to educate and sensitize divorcing parties to
84 [~~their~~] the parties' children's needs both during and after the divorce process.

85 (2) The Judicial Council shall adopt rules to implement and administer [~~this program~~]
86 the mandatory course described in Subsection (1).

87 (3) (a) (i) As a prerequisite to receiving a divorce decree, both parties are required to
88 attend a mandatory course on ~~[their]~~ the parties' children's needs after filing a complaint for
89 divorce and receiving a docket number, unless waived under Section 30-3-4.

90 (ii) If ~~[that requirement]~~ the requirement under Subsection (3)(a)(i) is waived, the court
91 may permit the divorce action to proceed.

92 (b) With the exception of a temporary restraining order ~~[pursuant to Rule 65;]~~ under
93 Rule 65A of the Utah Rules of Civil Procedure, a party may file, but the court may not hear, a
94 motion for an order related to the divorce until the moving party completes the mandatory
95 educational course for divorcing parents required by this section.

96 (4) The court may require unmarried parents to attend this educational course when
97 ~~[those]~~ the parents are involved in a visitation or custody proceeding before the court.

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

99 (a) about divorce and ~~[its impacts]~~ the impact of divorce on:

100 (i) ~~[their]~~ the parties' child or children;

101 (ii) ~~[their]~~ the parties' family relationship; and

102 (iii) ~~[their]~~ the parties' financial responsibilities for ~~[their]~~ the parties' child or children;

103 and

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

105 (6) (a) The course may be provided through live instruction, video instruction, or an
106 online provider.

107 (b) The online and video options must be formatted as interactive presentations that
108 ensure active participation and learning by the parent.

109 (7) (a) The Administrative Office of the Courts shall administer the course pursuant to
110 Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts and
111 organize the program in each of Utah's judicial districts.

112 (b) The contracts shall provide for the recoupment of administrative expenses through
113 the costs charged to individual parties~~[, pursuant to]~~ as described in Subsection (9).

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

116 (9) (a) (i) Each party shall pay the costs of the course to the independent contractor
117 providing the course at the time and place of the course.

118 (ii) A fee of \$8 shall be collected, as part of the course fee paid by each participant, and
119 deposited [in] into the Children's Legal Defense Account, described in Section 51-9-408.

120 (b) (i) Each party₂ who is unable to pay the costs of the course₂ may attend the course
121 without payment upon a prima facie showing of impecuniosity as evidenced by an affidavit of
122 impecuniosity filed in the district court. [~~In those situations~~]

123 (ii) If a party attends the course without payment as described in Subsection (9)(b)(i),
124 the independent contractor shall be reimbursed for [its] the independent contractor's costs from
125 the appropriation to the Administrative Office of the Courts for "Mandatory Educational
126 Course for Divorcing Parents Program."

127 (iii) Before a decree of divorce may be entered, the court:

128 (A) shall make a final review and determination of impecuniosity₂ and

129 (B) may order the payment of the costs if so determined.

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

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

136 (b) The Administrative Office of the Courts shall provide a progress report on the
137 mandatory educational course to the Judiciary Interim Committee if requested by the Judiciary
138 Interim Committee.

139 Section 3. Section 30-3-11.4 is amended to read:

140 **30-3-11.4. Mandatory orientation course for divorcing parties -- Curriculum --**
141 **Fee -- Reporting.**

142 (1) (a) There is established a mandatory divorce orientation course for all parties with
143 minor children who file a petition for temporary separation or for a divorce.

144 (b) A couple with no minor children is not required, but may choose to attend the
145 course.

146 (c) The purpose of the course is to educate parties about the divorce process and
147 reasonable alternatives.

148 (2) A petitioner shall attend a divorce orientation course no more than 60 days after

149 filing a petition for divorce.

150 (3) (a) With the exception of a temporary restraining order [~~pursuant to Rule 65;~~] under
151 Rule 65A of the Utah Rules of Civil Procedure, a party may file, but the court may not hear, a
152 motion for an order related to the divorce or petition for temporary separation, until the moving
153 party completes the divorce orientation course.

154 (b) Notwithstanding Subsection (3)(a), both parties shall attend a divorce orientation
155 course before a divorce decree may be entered, unless waived by the court under Section
156 30-3-4.

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

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

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

164 (a) options available as alternatives to divorce;

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

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

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

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

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

171 (i) mediation;

172 (ii) collaborative law; and

173 (iii) litigation; and

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

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

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

179 (9) The course may be through live instruction, video instruction, or through an online

180 provider.

181 (10) (a) A participant shall pay the costs of the course, which may not exceed \$30, to
182 the independent contractor providing the course at the time and place of the course.

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

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

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

189 (e) (i) A participant who is unable to pay the costs of the course may attend without
190 payment and request an Affidavit of Impecuniosity from the provider to be filed with the
191 petition or motion.

192 (ii) The provider shall be reimbursed for its costs by the Administrative Office of the
193 Courts.

194 (iii) A petitioner who is later determined not to meet the qualifications for
195 impecuniosity may be ordered to pay the costs of the course.

196 (11) Appropriations from the General Fund to the Administrative Office of the Courts
197 for the divorce orientation course shall be used to pay the costs of an indigent petitioner who is
198 determined to be impecunious as provided in Subsection (10)(e).

199 (12) The Online Court Assistance Program shall include instructions with the forms for
200 divorce that inform the petitioner of the requirement of this section.

201 (13) A certificate of completion constitutes evidence to the court of course completion
202 by the parties.

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

206 (15) (a) The Administrative Office of the Courts shall adopt a program to evaluate the
207 effectiveness of the mandatory educational course. [~~Progress reports shall be provided if~~
208 ~~requested by the Judiciary Interim Committee.~~]

209 (b) The Administrative Office of the Courts shall provide a progress report on the
210 mandatory educational course to the Judiciary Interim Committee if requested by the Judiciary

211 Interim Committee.

212 Section 4. Section **30-3-11.5** is enacted to read:

213 **30-3-11.5. Mandatory educational course for modification of a parenting plan --**
214 **Curriculum -- Fee -- Reporting.**

215 (1) As used in this section, "educational course" means a course that fulfills the
216 educational course requirement under Subsection [30-3-10.8\(3\)](#) for parties in a modification of a
217 parenting plan action.

218 (2) The Judicial Council shall:

219 (a) approve and implement an educational course; and

220 (b) adopt rules for the implementation and administration of the educational course in
221 accordance with this section.

222 (3) An educational course shall be designed to educate and sensitize parties about a
223 child's needs during and after the modification of a parenting plan, including educating and
224 instructing the parties on:

225 (a) the definition of a parenting plan under Section [30-3-10.7](#);

226 (b) the process for modifying a parenting plan;

227 (c) the objectives of a parenting plan under Section [30-3-10.9](#);

228 (d) how to effectively co-parent after a separation or divorce;

229 (e) resources, other than litigation, that are available for resolving custody and child
230 support issues, including alternative dispute resolution or mediation;

231 (f) how modification to a parenting plan may impact a child;

232 (g) how a parent may help the parent's child adjust to a modification of a parenting
233 plan; and

234 (h) the signs and effects of high-conflict and domestic violence issues on children and
235 family relationships.

236 (4) The Administrative Office of the Courts shall:

237 (a) administer an educational course in accordance with Title 63G, Chapter 6a, Utah
238 Procurement Code, through private or public contracts; and

239 (b) organize an educational course in each of Utah's judicial districts.

240 (5) (a) An educational course may be provided through live instruction, video
241 instruction, or an online provider.

242 (b) An educational course shall be approximately 60 minutes of instruction time.

243 (6) (a) (i) Except as provided in Subsection (6)(c), each party shall pay a fee that does
244 not exceed \$35 for an educational course.

245 (ii) A fee of \$5 shall be collected, as part of the fee described in Subsection (6)(a)(i),
246 and deposited into the Children's Legal Defense Account described in Section [51-9-408](#).

247 (b) A fee described in Subsection (6)(a)(i) shall be provided, at the time and place of
248 the educational course, to the independent contractor providing the educational course.

249 (c) Each party who is unable to pay the fee for the educational course may attend the
250 course without payment upon a prima facie showing of impecuniosity as evidenced by an
251 affidavit of impecuniosity filed in the district court in accordance with Section [78A-2-302](#).

252 (d) If a court determines that a party, who attended the educational course without
253 payment as described in Subsection (6)(c), did not meet the qualifications for impecuniosity,
254 the court may order the party to pay the fee for the educational course.

255 (7) A certificate of completion for an educational course:

256 (a) constitutes evidence to the court of course completion by each party; and

257 (b) is valid for 180 days after the day on which the educational course is completed by
258 the party.

259 (8) (a) The Administrative Office of the Courts shall adopt a program to evaluate the
260 effectiveness of the educational course requirement.

261 (b) The Administrative Office of the Courts shall provide a progress report on the
262 educational course requirement to the Judiciary Interim Committee if requested by the
263 Judiciary Interim Committee.

264 **Section 5. Coordinating H.B. 86 with S.B. 87 -- Technical amendment.**

265 If this H.B. 86 and S.B. 87, Court Fee Waiver Amendments, both pass and become law,
266 it is the intent of the Legislature that the Office of Legislative Research and General Counsel
267 prepare the Utah Code database for publication by changing the terminology in Subsections
268 [30-3-11.5\(6\)\(c\)](#) and (d) from "impecuniosity" to "indigency."