

**Representative Brady Brammer** 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

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**LONG TITLE**

**General Description:**

This bill addresses modification of a parenting plan.

**Highlighted Provisions:**

This bill:

- ▶ allows a court to require parties to attend a mandatory educational course when a party files a petition to modify that may result in a modification of a parenting plan;
- ▶ modifies the requirements for the mandatory educational course for divorcing or divorced parents; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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



25 [30-3-11.3](#), as last amended by Laws of Utah 2018, Chapter 470

26 [30-3-11.4](#), as last amended by Laws of Utah 2018, Chapter 470



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

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

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

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

- 35 (a) the original petition by the party; or
- 36 (b) the answer or counterclaim by the party.

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

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

41 (3) Except for a temporary restraining order under Rule 65A of the Utah Rules of Civil  
42 Procedure, if a party files a petition to modify under Subsection (2) that may result in  
43 modification of a parenting plan, the court may require both parties to attend the mandatory  
44 educational course described in Section [30-3-11.3](#) and present a certification of completion for  
45 the educational course to the court if the court determines that attendance and completion  
46 would be in the best interest of the parties.

47 [~~(3)~~] (4) A party who files a proposed parenting plan in compliance with this section  
48 may move the court for an order of default to adopt the plan if the other party fails to file a  
49 proposed parenting plan as required by this section.

50 [~~(4)~~] (5) Either party may file and serve an amended proposed parenting plan according  
51 to the rules for amending pleadings.

52 [~~(5)~~] (6) The parent submitting a proposed parenting plan shall attach a verified  
53 statement that the plan is proposed by that parent in good faith.

54 [~~(6)~~] (7) (a) Both parents may submit a parenting plan [~~which~~] that has been agreed  
55 upon.

56 (b) A verified statement, signed by both parents, shall be attached to the parenting plan.  
 57 ~~[(7)]~~ (8) If the parents file inconsistent parenting plans, the court may appoint a  
 58 guardian ad litem to represent the best interests of the child, who may, if necessary, file a  
 59 separate parenting plan reflecting the best interests of the child.

60 ~~[(8)]~~ (9) (a) When one or both parents are a servicemember, the parenting plan shall be  
 61 consistent with Subsection 30-3-10.9(10).

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

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

66 **30-3-11.3. Mandatory educational course for divorcing or divorced parents --**  
 67 **Curriculum -- Fee -- Reporting.**

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

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

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

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

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

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

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

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

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

- 87 (i) ~~[their] the parties'~~ the parties' child or children;
- 88 (ii) ~~[their] the parties'~~ the parties' family relationship; and
- 89 (iii) ~~[their] the parties'~~ the parties' financial responsibilities for ~~[their] the parties'~~ the parties' child or children;
- 90 ~~[and]~~

91 ~~[(b) that domestic violence has a harmful effect on children and family relationships.]~~

92 (b) on the definition of a parenting plan under Section 30-3-10.7;

93 (c) on the objectives of a parenting plan under Section 30-3-10.9;

94 (d) on the process for modifying a parenting plan;

95 (e) on how to effectively co-parent after a separation or divorce;

96 (f) about resources, other than litigation, that are available for resolving custody and

97 child support issues, including alternative dispute resolution or mediation;

98 (g) on how modification to a parenting plan may impact a child;

99 (h) on how a parent may help the parent's child adjust to a modification of a parenting

100 plan; and

101 (i) on the signs and effects of high-conflict and domestic violence issues on children  
102 and family relationships.

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

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

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

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

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

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

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

118 (b) (i) Each party<sub>2</sub> who is unable to pay the costs of the course<sub>2</sub> may attend the course  
119 without payment upon a prima facie showing of impecuniosity as evidenced by an affidavit of  
120 impecuniosity filed in the district court. [~~In those situations~~]

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

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

126 (A) shall make a final review and determination of impecuniosity<sub>2</sub> and

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

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

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

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

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

138 **30-3-11.4. Mandatory orientation course for divorcing parties -- Curriculum --**  
139 **Fee -- Reporting.**

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

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

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

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

148 (3) (a) With the exception of a temporary restraining order [~~pursuant to Rule 65,~~] under

149 Rule 65A of the Utah Rules of Civil Procedure, a party may file, but the court may not hear, a  
150 motion for an order related to the divorce or petition for temporary separation, until the moving  
151 party completes the divorce orientation course.

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

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

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

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

162 (a) options available as alternatives to divorce;

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

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

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

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

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

169 (i) mediation;

170 (ii) collaborative law; and

171 (iii) litigation; and

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

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

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

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

179 (10) (a) A participant shall pay the costs of the course, which may not exceed \$30, to

180 the independent contractor providing the course at the time and place of the course.

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

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

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

187 (e) A participant who is unable to pay the costs of the course may attend without  
188 payment and request an Affidavit of Impecuniosity from the provider to be filed with the  
189 petition or motion. The provider shall be reimbursed for its costs by the Administrative Office  
190 of the Courts. A petitioner who is later determined not to meet the qualifications for  
191 impecuniosity may be ordered to pay the costs of the course.

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

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

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

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

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

205 (b) The Administrative Office of the Courts shall provide a progress report on the  
206 mandatory orientation course to the Judiciary Interim Committee if requested by the Judiciary  
207 Interim Committee.