

Representative Jordan D. Teuscher proposes the following substitute bill:

DIVORCE IMPUTED INCOME REQUIREMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions relating to imputation of income for alimony purposes.

Highlighted Provisions:

This bill:

- ▶ provides potential limitations on imputation of income for alimony purposes in some circumstances where the recipient spouse has no recent full-time work history or has been diagnosed with a disability.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

ENACTS:

30-3-5.5, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

30-3-5.5, Utah Code Annotated 1953

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



26 *The following section is affected by a coordination clause at the end of this bill.*

27 Section 1. Section **30-3-5.5** is enacted to read:

28 **30-3-5.5. Imputed income for recipient spouse for alimony purposes -- No recent**
29 **work history or disability.**

30 (1) Notwithstanding the provisions of Section 30-3-5 or 78B-12-203, the court shall, in
31 determining imputation of income to a recipient spouse, apply the provisions of this section if
32 the recipient spouse:

33 (a) has no recent full-time work history resulting primarily from caring for a child of
34 the payor spouse; or

35 (b) has been diagnosed with a disability.

36 (2) If a recipient spouse has no recent full-time work history resulting primarily from
37 caring for a child of the payor spouse, the court may not:

38 (a) base its imputation analysis on employment, training, or education which is not
39 recent or for which the recipient spouse has no recent full-time work history; or

40 (b) impute income for employment for which the recipient spouse can show a
41 reasonable barrier to obtaining or retaining that employment.

42 (3) If a recipient spouse has been diagnosed with a disability, the court may not impute
43 income for employment for which the recipient spouse can show a reasonable barrier to
44 obtaining or retaining that employment.

45 (4) (a) In making an income imputation under this section, the court may use relevant
46 provisions of Section 78B-12-203, provided that the provision is not contrary to the
47 requirements of this section.

48 (b) When determining the length of time that is considered by the court to be recent as
49 relates to a recipient spouse's work history, training, or education under this section, the court
50 shall consider whether the spouse is fully competitive against other employment applicants
51 whose work history, training, or education is current.

52 (c) If the court imputes any income to a recipient spouse who qualifies for income
53 review under this section, the court shall enter specific findings of fact as to the evidentiary
54 basis for imputing the income.

55 (5) (a) After a divorce decree has been entered, subject to the requirements of
56 Subsection 30-3-5(11), the court shall review an income imputation to a recipient spouse under

57 this section.

58 (b) A recipient spouse's showing that barriers have prevented significant improvement
59 of the recipient spouse's employment situation, despite reasonable efforts on the part of the
60 recipient spouse to improve their employment situation, shall constitute a substantial material
61 change in circumstances and eligibility to review an income imputation under this section.

62 Section 2. **Effective date.**

63 This bill takes effect on May 1, 2024.

64 Section 3. **Coordinating H.B. 219 with S.B. 95.**

65 If S.B. 95, Domestic Relations Recodification, and H.B. 219, Divorce Imputed Income
66 Requirements, both pass and become law, the Legislature intends that, on September 1, 2024:

67 (1) Section 30-3-5.5 enacted in H.B. 219 be renumbered to Section 81-4-503 and be
68 amended to read:

69 **"81-4-503. Imputed income for payee for alimony purposes -- No recent work**
70 **history or disability.**

71 "(1) Notwithstanding the provisions of Section 81-4-502 or 81-6-203, the court shall,
72 in determining imputation of income to a payee, apply the provisions of this section if the
73 payee:

74 (a) has no recent full-time work history resulting primarily from caring for a child of
75 the payor; or

76 (b) has been diagnosed with a disability.

77 (2) If a payee has no recent full-time work history resulting primarily from caring for a
78 minor child of the payor, the court may not:

79 (a) base its imputation analysis on employment, training, or education which is not
80 recent or for which the payee has no recent full-time work history; or

81 (b) impute income for employment for which the payee can show a reasonable barrier
82 to obtaining or retaining that employment.

83 (3) If a payee has been diagnosed with a disability, the court may not impute income
84 for employment for which the payee can show a reasonable barrier to obtaining or retaining
85 that employment.

86 (4) (a) In making an income imputation under this section, the court may use relevant
87 provisions of Section 81-6-203, provided that the provision is not contrary to the requirements

88 of this section.

89 (b) When determining the length of time that is considered by the court to be recent as
90 relates to a payee's work history, training, or education under this section, the court shall
91 consider whether the spouse is fully competitive against other employment applicants whose
92 work history, training, or education is current.

93 (c) If the court imputes any income to a payee who qualifies for income review under
94 this section, the court shall enter specific findings of fact as to the evidentiary basis for
95 imputing the income.

96 (5) (a) After a divorce decree has been entered, subject to the requirements of Section
97 81-4-504, the court shall review an income imputation to a payee under this section.

98 (b) A payee's showing that barriers have prevented significant improvement of the
99 payee's employment situation, despite reasonable efforts on the part of the payee to improve
100 their employment situation, shall constitute a substantial material change in circumstances and
101 eligibility to review an income imputation under this section.";

102 (2) Section 81-4-503 enacted in S.B. 95 be renumbered to Section 81-4-504;

103 (3) Section 81-4-504 enacted in S.B. 95 be renumbered to Section 81-4-505; and

104 (4) the reference in Section 81-1-204 in S.B. 95 to "Section 81-4-503" be changed to
105 "Section 81-4-504".