

## HB0219S03 compared with HB0219S02

~~text~~ shows text that was in HB0219S02 but was deleted in HB0219S03.

inserted text shows text that was not in HB0219S02 but was inserted into HB0219S03.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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:  ~~}~~ \_\_\_\_\_

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#### 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:

~~None~~ This bill provides a coordination clause.

##### Utah Code Sections Affected:

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ENACTS:

30-3-5.5, Utah Code Annotated 1953

### Utah Code Sections Affected by Coordination Clause:

30-3-5.5, Utah Code Annotated 1953

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

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

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

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

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

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

(b) has been diagnosed with a disability.

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

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

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

(3) If a recipient spouse has been diagnosed with a disability~~;~~

~~(a) }, the court may not impute income ~~to a recipient spouse in an amount that is contrary to the recipient spouse's testimony and evidence, or the recipient spouse's expert's testimony, unless:~~~~

~~(i) fraud is shown on the part of; **for employment for which** the recipient spouse ~~fin~~ alleging disability or work limitations; or~~

~~(ii) the court finds the expert testimony to be wholly unreliable; and~~

~~(b) the court may impute income in another amount than that shown under Subsection~~

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~~(3)(a), as applicable, provided that the court enters specific, unrefuted findings of fact as to the evidentiary basis for the imputation}~~ can show a reasonable barrier to obtaining or retaining that employment.

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

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

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

(5) (a) After a divorce decree has been entered, subject to the requirements of Subsection 30-3-5(11), the court shall review an income imputation to a recipient spouse under this section ~~, if applicable~~.

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

### Section 2. **Effective date.**

This bill takes effect on May 1, 2024.

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

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

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

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

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

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payee:

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

(b) has been diagnosed with a disability.

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

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

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

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

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

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

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

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

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

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

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

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