

1 **AMENDMENTS TO MANDATORY COURSES FOR FAMILY LAW ACTIONS**

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joseph Elison

Senate Sponsor: Michael K. McKell

2
3 **LONG TITLE**

4 **General Description:**

5 This bill amends provisions regarding mandatory courses in family law actions.

6 **Highlighted Provisions:**

7 This bill:

8 ▸ clarifies the requirements for mandatory courses in temporary separation, divorce, and
9 parentage actions;

10 ▸ clarifies the requirements for the divorce orientation course in a temporary separation
11 action;

12 ▸ addresses a waiver of a mandatory course requirement by the court in a temporary
13 separation, divorce, and parentage action;

14 ▸ creates a parenting course for unmarried parties in a parentage action;

15 ▸ addresses the requirements for a parenting course in a parentage action; and

16 ▸ makes technical and conforming changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **30-3-4**, as last amended by Laws of Utah 2018, Chapter 470

24 **30-3-4.5**, as last amended by Laws of Utah 2010, Chapter 34

25 **30-3-10.3**, as last amended by Laws of Utah 2012, Chapter 271

26 **30-3-10.4**, as last amended by Laws of Utah 2023, Chapter 44

27 **30-3-10.9**, as last amended by Laws of Utah 2018, Chapter 37

28 **30-3-11.3**, as last amended by Laws of Utah 2022, Chapter 272
 29 **30-3-11.4**, as last amended by Laws of Utah 2022, Chapter 272
 30 **30-3-35.2**, as enacted by Laws of Utah 2021, Chapter 399
 31 **51-9-408**, as last amended by Laws of Utah 2021, Chapter 262
 32 **78B-15-610**, as last amended by Laws of Utah 2019, Chapter 188

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

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

36 **30-3-4 . Pleadings -- Decree -- Mandatory course requirements -- Use of affidavit**
 37 **-- Private records.**

38 (1) As used in this section, "mandatory courses" means:

39 (a) the mandatory parenting course described in Subsection 30-3-11.3(1)(a); and

40 (b) the divorce orientation course described in Section 30-3-11.4.

41 ~~[(1)]~~ (2) (a) The complaint shall be in writing and signed by the petitioner or petitioner's
 42 attorney.

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

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

53 ~~[(d)]~~ (c) All hearings and trials for divorce shall be held before the court or the court
 54 commissioner as provided by Section 78A-5-107 and rules of the Judicial Council.
 55 The court or the commissioner in all divorce cases shall enter the decree upon the
 56 evidence or, in the case of a decree after default of the respondent, upon the
 57 petitioner's affidavit.

58 (3) (a) If the parties to the divorce action have a child, the parties shall attend the
 59 mandatory courses:

60 (i) for the petitioner, within 60 days after the day on which the petition is filed; and

61 (ii) for the respondent, within 30 days after the day on which the respondent is served.

- 62 (b) If the parties to a divorce action do not have a child, the parties may choose to attend
63 the divorce orientation course described in Section 30-3-11.4.
- 64 (c) The clerk of the court shall provide notice to a petitioner of the requirement for the
65 mandatory courses.
- 66 (d) A petition shall include information regarding the mandatory courses when the
67 petition is served on the respondent.
- 68 (4) For a party that is unable to pay the costs of the mandatory courses, and before the court
69 enters a decree of divorce in the action, the court shall:
- 70 (a) make a final determination of indigency; and
- 71 (b) order the party to pay the costs of the mandatory courses if the court determines the
72 party is not indigent.
- 73 (5) (a) Except for a temporary restraining order under Rule 65 of the Utah Rules of Civil
74 Procedure, a party may file, but the court may not hear, a motion for an order related
75 to the divorce until the moving party completes the mandatory courses.
- 76 (b) It is an affirmative defense in a divorce action that a party has not completed the
77 mandatory courses and the action may not continue until a party has complied with
78 the mandatory courses.
- 79 (6) (a) Notwithstanding Subsections (3) and (5)(b), the court may waive the requirement
80 that the parties attend the mandatory courses, on the court's own motion or on the
81 motion of one of the parties, if the court determines course attendance and
82 completion are not necessary, appropriate, or feasible, or in the best interest of the
83 parties.
- 84 (b) If the requirement is waived, the court may permit the divorce action to proceed.
- 85 ~~(2)~~ (7) (a) A party to an action brought under this title or to an action under Title 78B,
86 Chapter 12, Utah Child Support Act, Title 78B, Chapter 13, Utah Uniform Child
87 Custody Jurisdiction and Enforcement Act, Title 78B, Chapter 14, Utah Uniform
88 Interstate Family Support Act, Title 78B, Chapter 15, Utah Uniform Parentage Act,
89 or to an action to modify or enforce a judgment in the action may file a motion to
90 have the file other than the final judgment, order, or decree classified as private.
- 91 (b) If the court finds that there are substantial interests favoring restricting access that
92 clearly outweigh the interests favoring access, the court may classify the file, or any
93 part thereof other than the final order, judgment, or decree, as private. An order
94 classifying part of the file as private does not apply to subsequent filings.
- 95 (c) The record is private until the judge determines it is possible to release the record

96 without prejudice to the interests that justified the closure. Any interested person
97 may petition the court to permit access to a record classified as private under this
98 section. The petition shall be served on the parties to the closure order.

99 Section 2. Section **30-3-4.5** is amended to read:

100 **30-3-4.5 . Motion for temporary separation order.**

101 (1) A petitioner may file an action for a temporary separation order without filing a petition
102 for divorce by filing a petition for temporary separation and motion for temporary orders
103 if:

104 (a) the petitioner is lawfully married to the respondent; and

105 (b) both parties are residents of the state for at least 90 days prior to the date of filing.

106 (2) The temporary orders are valid for one year from the date of the hearing, or until one of
107 the following occurs:

108 (a) a petition for divorce is filed and consolidated with the petition for temporary
109 separation; or

110 (b) the case is dismissed.

111 (3) If a petition for divorce is filed and consolidated with the petition for temporary
112 separation, orders entered in the temporary separation shall continue in the consolidated
113 case.

114 [~~(4) Both parties shall attend the divorce orientation course described in Section 30-3-11.4
115 within 60 days of the filing of the petition, for petitioner, and within 45 days of being
116 served, for respondent.]~~

117 (4) (a) If the parties to the temporary separation action have a child, the parties shall
118 attend the divorce orientation course described in Section 30-3-11.4:

119 (i) for the petitioner, within 60 days after the day on which the petition is filed; and

120 (ii) for the respondent, within 30 days after the day on which the respondent is served.

121 (b) If the parties to the temporary separation action do not have a child, the parties may
122 choose to attend the divorce orientation course described in Section 30-3-11.4.

123 (c) The clerk of the court shall provide notice to a petitioner of the divorce orientation
124 course requirement.

125 (d) A petition shall include information regarding the divorce orientation course
126 requirement when the petition is served on the respondent.

127 (5) For a party that is unable to pay the costs of the divorce orientation course, and before
128 the court enters a decree of divorce in the action, the court shall:

129 (a) make a final determination of indigency; and

- 130 (b) order the party to pay the costs of the divorce orientation course if the court
131 determines the party is not indigent.
- 132 (6) (a) Except for a temporary restraining order under Rule 65 of the Utah Rules of Civil
133 Procedure, a party may file, but the court may not hear, a motion for an order related
134 to the temporary separation petition until the moving party completes the divorce
135 orientation course.
- 136 (b) It is an affirmative defense in a temporary separation action that a party has not
137 completed the divorce orientation course and the action may not continue until a
138 party has complied with the divorce orientation course.
- 139 (7) (a) Notwithstanding Subsections (4) or (6)(b), the court may waive the requirement
140 that the parties attend the divorce orientation course, on the court's own motion or on
141 the motion of one of the parties, if the court determines course attendance and
142 completion are not necessary, appropriate, or feasible, or in the best interest of the
143 parties.
- 144 (b) If the requirement is waived, the court may permit the temporary separation action to
145 proceed.
- 146 [~~(5)~~] (8) Service shall be made upon respondent, together with a 20-day summons, in
147 accordance with the rules of civil procedure.
- 148 [~~(6)~~] (9) The fee for filing the petition for temporary separation orders is \$35. If either party
149 files a petition for divorce within one year from the date of filing the petition for
150 temporary separation, the separation filing fee shall be credited towards the filing fee for
151 the divorce.
- 152 Section 3. Section **30-3-10.3** is amended to read:
- 153 **30-3-10.3 . Terms of joint legal or physical custody order.**
- 154 [~~(1)~~] ~~Unless the court orders otherwise, before a final order of joint legal custody or joint~~
155 ~~physical custody is entered both parties shall attend the mandatory course for divorcing~~
156 ~~parents, as provided in Section 30-3-11.3, and present a certificate of completion from~~
157 ~~the course to the court.]~~
- 158 [~~(2)~~] (1) An order of joint legal or physical custody shall provide terms the court determines
159 appropriate, which may include specifying:
- 160 (a) either the county of residence of the child, until altered by further order of the court,
161 or the custodian who has the sole legal right to determine the residence of the child;
- 162 (b) that the parents shall exchange information concerning the health, education, and
163 welfare of the child, and where possible, confer before making decisions concerning

- 164 any of these areas;
- 165 (c) the rights and duties of each parent regarding the child's present and future physical
166 care, support, and education;
- 167 (d) provisions to minimize disruption of the child's attendance at school and other
168 activities, his daily routine, and his association with friends; and
- 169 (e) as necessary, the remaining parental rights, privileges, duties, and powers to be
170 exercised by the parents solely, concurrently, or jointly.
- 171 ~~[(3)]~~ (2) The court shall, where possible, include in the order the terms of the parenting plan
172 provided in accordance with Section 30-3-10.8.
- 173 ~~[(4)]~~ (3) Any parental rights not specifically addressed by the court order may be exercised
174 by the parent having physical custody of the child the majority of the time.
- 175 ~~[(5)]~~ (4) The appointment of joint legal or physical custodians does not impair or limit the
176 authority of the court to order support of the child, including payments by one custodian
177 to the other.
- 178 ~~[(6)]~~ (5) An order of joint legal custody, in itself, is not grounds for modifying a support
179 order.
- 180 ~~[(7)]~~ (6) An order of joint legal or physical custody shall require a parenting plan
181 incorporating a dispute resolution procedure the parties agree to use:
- 182 (a) in accordance with Section 30-3-10.9, or as ordered by the court in accordance with
183 Subsection 30-3-10.2(5); and
- 184 (b) before seeking enforcement or modification of the terms and conditions of the order
185 of joint legal or physical custody through litigation, except in emergency situations
186 requiring ex parte orders to protect the child.
- 187 Section 4. Section **30-3-10.4** is amended to read:
- 188 **30-3-10.4 . Modification or termination of order.**
- 189 (1) On the petition of one or both of the parents, or the joint legal or physical custodians if
190 they are not the parents, the court may, after a hearing, modify or terminate an order that
191 established joint legal custody or joint physical custody if:
- 192 (a) the verified petition or accompanying affidavit initially alleges that admissible
193 evidence will show that the circumstances of the child or one or both parents or joint
194 legal or physical custodians have materially and substantially changed since the entry
195 of the order to be modified;
- 196 (b) a modification of the terms and conditions of the order would be an improvement for
197 and in the best interest of the child; and

- 198 (c) (i) both parents have complied in good faith with the dispute resolution procedure
199 in accordance with Subsection [~~30-3-10.3(7)~~] 30-3-10.3(6); or
200 (ii) if no dispute resolution procedure is contained in the order that established joint
201 legal custody or joint physical custody, the court orders the parents to participate
202 in a dispute resolution procedure in accordance with Subsection 30-3-10.2(5)
203 unless the parents certify that, in good faith, they have used a dispute resolution
204 procedure to resolve their dispute.
- 205 (2) (a) In determining whether the best interest of a child will be served by either
206 modifying or terminating the joint legal custody or joint physical custody order, the
207 court shall, in addition to other factors the court considers relevant, consider the
208 factors outlined in Section 30-3-10 and Subsection 30-3-10.2(2).
- 209 (b) A court order modifying or terminating an existing joint legal custody or joint
210 physical custody order shall contain written findings that:
211 (i) a material and substantial change of circumstance has occurred; and
212 (ii) a modification of the terms and conditions of the order would be an improvement
213 for and in the best interest of the child.
- 214 (c) The court shall give substantial weight to the existing joint legal custody or joint
215 physical custody order when the child is thriving, happy, and well-adjusted.
- 216 (3) The court shall, in every case regarding a petition for termination of a joint legal
217 custody or joint physical custody order, consider reasonable alternatives to preserve the
218 existing order in accordance with Subsection 30-3-10(3). The court may modify the
219 terms and conditions of the existing order in accordance with Subsection 30-3-10(8) and
220 may order the parents to file a parenting plan in accordance with this chapter.
- 221 (4) A parent requesting a modification from sole custody to joint legal custody or joint
222 physical custody or both, or any other type of shared parenting arrangement, shall file
223 and serve a proposed parenting plan with the petition to modify in accordance with
224 Section 30-3-10.8.
- 225 (5) If the court finds that an action under this section is filed or answered frivolously and in
226 a manner designed to harass the other party, the court shall assess attorney fees as costs
227 against the offending party.
- 228 (6) If an issue before the court involves custodial responsibility in the event of deployment
229 of one or both parents who are service members, and the service member has not yet
230 been notified of deployment, the court shall resolve the issue based on the standards in
231 Sections 78B-20-306 through 78B-20-309.

232 Section 5. Section **30-3-10.9** is amended to read:

233 **30-3-10.9 . Parenting plan -- Objectives -- Required provisions -- Dispute**
234 **resolution -- Education plan.**

235 (1) The objectives of a parenting plan are to:

236 (a) provide for the child's physical care;

237 (b) maintain the child's emotional stability;

238 (c) provide for the child's changing needs as the child grows and matures in a way that
239 minimizes the need for future modifications to the parenting plan;

240 (d) set forth the authority and responsibilities of each parent with respect to the child
241 consistent with the definitions outlined in this chapter;

242 (e) minimize the child's exposure to harmful parental conflict;

243 (f) encourage the parents, where appropriate, to meet the responsibilities to their minor
244 children through agreements in the parenting plan rather than relying on judicial
245 intervention; and

246 (g) protect the best interests of the child.

247 (2) The parenting plan shall contain provisions for resolution of future disputes between the
248 parents, allocation of decision-making authority, and residential provisions for the child,
249 and provisions addressing notice and parent-time responsibilities in the event of the
250 relocation of either party. It may contain other provisions comparable to those in
251 Sections 30-3-5 and 30-3-10.3 regarding the welfare of the child.

252 (3) A process for resolving disputes shall be provided unless precluded or limited by
253 statute. A dispute resolution process may include:

254 (a) counseling;

255 (b) mediation or arbitration by a specified individual or agency; or

256 (c) court action.

257 (4) In the dispute resolution process:

258 (a) preference shall be given to the provisions in the parenting plan;

259 (b) parents shall use the designated process to resolve disputes relating to
260 implementation of the plan, except those related to financial support, unless an
261 emergency exists;

262 (c) a written record shall be prepared of any agreement reached in counseling or
263 mediation and provided to each party;

264 (d) if arbitration becomes necessary, a written record shall be prepared and a copy of the
265 arbitration award shall be provided to each party;

- 266 (e) if the court finds that a parent has used or frustrated the dispute resolution process
267 without good reason, the court may award attorney fees and financial sanctions to the
268 prevailing parent;
- 269 (f) the district court has the right of review from the dispute resolution process; and
270 (g) the provisions of this Subsection (4) shall be set forth in any final decree or order.
- 271 (5) (a) Subject to the other provisions of this Subsection (5), the parenting plan shall
272 allocate decision-making authority to one or both parties regarding the child's
273 education, healthcare, and religious upbringing. The parties may incorporate an
274 agreement related to the care and growth of the child in these specified areas or in
275 other areas into the plan, consistent with the criteria outlined in Subsection 30-3-10.7
276 (2) and Subsection (1). Regardless of the allocation of decision-making in the
277 parenting plan, either parent may make emergency decisions affecting the health or
278 safety of the child.
- 279 (b) A child's education plan shall designate the following:
- 280 (i) the home residence for purposes of identifying the appropriate school or another
281 specific plan that provides for where the child will attend school;
- 282 (ii) which parent has authority to make education decisions for the child if the parents
283 cannot agree; and
- 284 (iii) whether one or both parents have access to the child during school and authority
285 to check the child out of school.
- 286 (c) If no education provision is included in the parent plan:
- 287 (i) a parent with sole physical custody shall make the decisions listed in Subsection
288 (5)(b);
- 289 (ii) in the event of joint physical custody when one parent has custody a majority of
290 the time, pursuant to Subsection [~~30-3-10.3(4)~~] 30-3-10.3(3):
- 291 (A) the parent having the child the majority of the time shall make the decisions
292 listed in Subsections (5)(b)(i) and (ii); and
- 293 (B) both parents with joint physical custody shall have access to the child during
294 school and authority to check the child out of school; or
- 295 (iii) in the event of joint physical custody when the parents have custody an equal
296 amount of time:
- 297 (A) the court shall determine how the decisions listed in Subsections (5)(b)(i) and
298 (ii) are made; and
- 299 (B) both parents with joint physical custody shall have access to the child during

- 300 school and authority to check the child out of school.
- 301 (6) Each parent may make decisions regarding the day-to-day care and control of the child
302 while the child is residing with that parent.
- 303 (7) When mutual decision-making is designated but cannot be achieved, the parties shall
304 make a good faith effort to resolve the issue through the dispute resolution process.
- 305 (8) The plan shall include a residential schedule that designates in which parent's home
306 each minor child shall reside on given days of the year, including provisions for
307 holidays, birthdays of family members, vacations, and other special occasions.
- 308 (9) If a parent fails to comply with a provision of the parenting plan or a child support
309 order, the other parent's obligations under the parenting plan or the child support order
310 are not affected. Failure to comply with a provision of the parenting plan or a child
311 support order may result in a finding of contempt of court.
- 312 (10) (a) When one or both parents are servicemembers, the parenting plan shall contain
313 provisions that address the foreseeable parenting and custodial issues likely to arise
314 in the event of notification of deployment or other contingency, including long-term
315 deployments, short-term deployments, death, incapacity, and noncombatant
316 evacuation operations.
- 317 (b) The provisions in the parenting plan described in Subsection (10)(a) shall comport
318 substantially with the requirements of an agreement made pursuant to Section
319 78B-20-201.
- 320 Section 6. Section **30-3-11.3** is amended to read:
- 321 **30-3-11.3 . Mandatory parenting course for parties in a divorce or parentage**
322 **action.**
- 323 (1) The Judicial Council shall approve and implement[-] :
- 324 (a) a mandatory parenting course[~~for divorcing parents~~] in all judicial districts[~~. The~~
325 ~~mandatory course is designed to educate and sensitize divorcing parties to their~~
326 ~~children's needs both during and after the divorce process.~~] for married parties in a
327 divorce action determining issues of child custody and parent-time; and
- 328 (b) a mandatory parenting course in all judicial districts for unmarried parties in a
329 parentage action determining issues of child custody and parent-time.
- 330 (2) The Judicial Council shall adopt rules to implement and administer [this program] the
331 mandatory parenting courses described in Subsection (1).
- 332 [(3) (a) As a prerequisite to receiving a divorce decree, both parties are required to attend a
333 mandatory course on their children's needs after filing a complaint for divorce and

334 receiving a docket number, unless waived under Section 30-3-4. If that requirement is
335 waived, the court may permit the divorce action to proceed.]

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

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

342 [(5)] (3) [~~The mandatory course shall instruct both parties:] The mandatory parenting courses
343 shall educate and sensitize parties to the needs of the parties' child during and after the
344 court process, including instructing the parties:~~

345 (a) about [~~divorce and its impacts] the impact of the court process, and its outcome, on:~~

346 (i) [~~their child or children] the child;~~

347 (ii) [~~their] the family relationship; and~~

348 (iii) [~~their financial responsibilities for their child or children] the financial
349 responsibilities of the parties to the child; and~~

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

351 [(6)] (4) (a) [~~The course] The mandatory parenting courses may be provided through live
352 instruction, video instruction, or an online provider.~~

353 (b) The online and video options under Subsection (4)(a) must be formatted as
354 interactive presentations that ensure active participation and learning by the [~~parent]~~
355 party.

356 [(7)] (5) (a) The Administrative Office of the Courts shall administer [~~the course~~
357 ~~pursuant to]~~ the mandatory parenting courses, in accordance with Title 63G, Chapter
358 6a, Utah Procurement Code, through private or public contracts and organize the
359 program in each of Utah's judicial districts.

360 (b) The contracts shall provide for the recoupment of administrative expenses through
361 the costs charged to individual parties[~~, pursuant to Subsection (9).] as described in
362 Subsection (7).~~

363 [(8)] (6) A certificate of completion constitutes evidence to the court of [~~course]~~ completion
364 of a parenting course under this section by the parties.

365 [(9)] (7) (a) Each party shall pay the [~~costs of the]~~ cost of a parenting course to the
366 independent contractor providing the course at the time and place of the course.

367 (b) A fee of \$8 shall be collected, as part of [~~the course]~~ a parenting course fee paid by

368 each participant, and deposited in the Children's Legal Defense Account[;] described
369 in Section 51-9-408.

370 ~~[(b)]~~ (c) Each party who is unable to pay the ~~[costs of the-]~~ cost of a parenting course may
371 attend the parenting course, without payment, upon a prima facie showing of
372 indigency as evidenced by an affidavit of indigency filed in the district court in
373 accordance with Section 78A-2-302. ~~[In those situations, the independent contractor~~
374 ~~shall be reimbursed for the independent contractor's costs from the appropriation to~~
375 ~~the Administrative Office of the Courts for "Mandatory Educational Course for~~
376 ~~Divorcing Parents Program." Before a decree of divorce may be entered, the court~~
377 ~~shall make a final review and determination of indigency and may order the payment~~
378 ~~of the costs if so determined.]~~

379 (d) The Administrative Office of the Courts shall use appropriations from the Children's
380 Legal Defense Account to reimburse an independent contractor for the costs of a
381 party who is unable to pay for a parenting course under Subsection (7)(c).

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

385 ~~[(11)]~~ (8) The Administrative Office of the Courts shall:

386 (a) adopt a program to evaluate the effectiveness of ~~[the mandatory educational course.~~
387 ~~Progress reports shall be provided if requested by the Judiciary Interim Committee.]~~
388 the mandatory parenting courses; and

389 (b) provide progress reports to the Judiciary Interim Committee if requested.

390 Section 7. Section **30-3-11.4** is amended to read:

391 **30-3-11.4 . Mandatory orientation course for divorce or temporary separation**
392 **actions.**

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

395 (b) A couple with no minor children is not required, but may choose to attend the
396 course. ~~[The purpose of the course is to educate parties about the divorce process and~~
397 ~~reasonable alternatives.]~~

398 ~~[(2) A petitioner shall attend a divorce orientation course no more than 60 days after filing~~
399 ~~a petition for divorce.]~~

400 ~~[(3) (a) With the exception of a temporary restraining order pursuant to Rule 65, Utah~~
401 ~~Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an~~

- 402 order related to the divorce or petition for temporary separation, until the moving party
403 completes the divorce orientation course.]
- 404 [(b) Notwithstanding Subsection (3)(a), both parties shall attend a divorce orientation
405 course before a divorce decree may be entered, unless waived by the court under Section
406 30-3-4.]
- 407 [(4) The respondent shall attend the divorce orientation course no more than 30 days after
408 being served with a petition for divorce.]
- 409 [(5) The clerk of the court shall provide notice to a petitioner of the requirement for the
410 course, and information regarding the course shall be included with the petition or
411 motion, when served on the respondent.]
- 412 [(6)] (2) The divorce orientation course shall be neutral, unbiased, and at least one hour in
413 duration[, and include:] .
- 414 (3) The divorce orientation course shall educate the parties about the divorce process and
415 reasonable alternatives, including instructing the parties on:
- 416 (a) options available as alternatives to divorce;
- 417 (b) resources available from courts and administrative agencies for resolving custody
418 and support issues without filing for divorce;
- 419 (c) resources available to improve or strengthen the marriage;
- 420 (d) a discussion of the positive and negative consequences of divorce;
- 421 (e) a discussion of the process of divorce;
- 422 (f) options available for proceeding with a divorce, including:
- 423 (i) mediation;
- 424 (ii) collaborative law; and
- 425 (iii) litigation; and
- 426 (g) a discussion of post-divorce resources.
- 427 [(7)] (4) The divorce orientation course may be provided in conjunction with [~~the mandatory~~
428 ~~course for divorcing parents~~] a mandatory parenting course required by Section
429 30-3-11.3.
- 430 [(8)] (5) The Administrative Office of the Courts shall administer the [~~course pursuant to~~]
431 divorce orientation course, in accordance with Title 63G, Chapter 6a, Utah Procurement
432 Code, through private or public contracts and organize the program in each of Utah's
433 judicial districts.
- 434 [(9)] (6) The divorce orientation course may be through live instruction, video instruction,
435 or through an online provider.

- 436 ~~[(10)]~~ (7) (a) A ~~[participant-]~~ party shall pay the ~~[costs-]~~ cost of the divorce orientation
 437 course~~[, which may not exceed \$30,]~~ to the independent contractor providing the
 438 course at the time and place of the course.
- 439 (b) A party may not be charged more than \$30 to participate in the divorce orientation
 440 course.
- 441 (c) A petitioner may not be charged more than \$15 to participate in the divorce
 442 orientation course if the petitioner attends a live instruction course within 30 days
 443 after the day on which the petitioner filed the action.
- 444 (d) A respondent may not be charged more than \$15 to participate in the divorce
 445 orientation course if the respondent attends a live instruction course within 30 days
 446 after the day on which the respondent is served with the action.
- 447 ~~[(b) A petitioner who attends a live instruction course within 30 days of filing may not~~
 448 ~~be charged more than \$15 for the course.]~~
- 449 ~~[(c) A respondent who attends a live instruction course within 30 days of being served~~
 450 ~~with a petition for divorce may not be charged more than \$15 for the course.]~~
- 451 ~~[(d)]~~ (e) A fee of \$5 shall be collected, as part of the divorce orientation course fee paid
 452 by each participant, and deposited in the Children's Legal Defense Account described
 453 in Section 51-9-408.
- 454 ~~[(e)]~~ (f) Each party who is unable to pay the costs of the course may attend the divorce
 455 orientation course, without payment, upon a prima facie showing of indigency as
 456 evidenced by an affidavit of indigency filed in the district court in accordance with
 457 Section 78A-2-302. ~~[The independent contractor shall be reimbursed for the~~
 458 ~~independent contractor's costs by the Administrative Office of the Courts. A~~
 459 ~~petitioner who is later determined not to meet the qualifications for indigency may be~~
 460 ~~ordered to pay the costs of the course.]~~
- 461 (g) The Administrative Office of the Courts shall use appropriations from the Children's
 462 Legal Defense Account to reimburse an independent contractor for the costs of a
 463 party who is unable to pay for the divorce orientation course under Subsection (7)(f).
- 464 ~~[(11) Appropriations from the General Fund to the Administrative Office of the Courts for~~
 465 ~~the divorce orientation course shall be used to pay the costs of an indigent petitioner~~
 466 ~~who is determined to be indigent as provided in Subsection (10)(e).]~~
- 467 ~~[(12)]~~ (8) The Online Court Assistance Program shall include instructions with the forms for
 468 divorce that inform the petitioner of the requirement of this section.
- 469 ~~[(13)]~~ (9) A certificate of completion constitutes evidence to the court of ~~[course]~~

470 completion of the divorce orientation course by the parties.

471 ~~[(14) It shall be an affirmative defense in all divorce actions that the divorce orientation~~
472 ~~requirement was not complied with, and the action may not continue until a party has~~
473 ~~complied.]~~

474 ~~[(15)]~~ (10) The Administrative Office of the Courts shall:

475 (a) adopt a program to evaluate the effectiveness of ~~[the mandatory educational course.~~
476 ~~Progress reports shall be provided if requested by the Judiciary Interim Committee.]~~
477 the divorce orientation course described in this section; and

478 (b) provide progress reports to the Judiciary Interim Committee if requested.

479 Section 8. Section **30-3-35.2** is amended to read:

480 **30-3-35.2 . Equal parent-time schedule.**

481 (1) (a) A court may order the equal parent-time schedule described in this section if the
482 court determines that:

483 (i) the equal parent-time schedule is in the child's best interest;

484 (ii) each parent has been actively involved in the child's life; and

485 (iii) each parent can effectively facilitate the equal parent-time schedule.

486 (b) To determine whether each parent has been actively involved in the child's life, the
487 court shall consider:

488 (i) each parent's demonstrated responsibility in caring for the child;

489 (ii) each parent's involvement in child care;

490 (iii) each parent's presence or volunteer efforts in the child's school and at
491 extracurricular activities;

492 (iv) each parent's assistance with the child's homework;

493 (v) each parent's involvement in preparation of meals, bath time, and bedtime for the
494 child;

495 (vi) each parent's bond with the child; and

496 (vii) any other factor the court considers relevant.

497 (c) To determine whether each parent can effectively facilitate the equal parent-time
498 schedule, the court shall consider:

499 (i) the geographic distance between the residence of each parent and the distance
500 between each residence and the child's school;

501 (ii) each parent's ability to assist with the child's after school care;

502 (iii) the health of the child and each parent, consistent with Subsection 30-3-10(6);

503 (iv) the flexibility of each parent's employment or other schedule;

- 504 (v) each parent's ability to provide appropriate playtime with the child;
- 505 (vi) each parent's history and ability to implement a flexible schedule for the child;
- 506 (vii) physical facilities of each parent's residence; and
- 507 (viii) any other factor the court considers relevant.
- 508 (2) (a) If the parties agree to or the court orders the equal parent-time schedule described
- 509 in this section, a parenting plan in accordance with Sections 30-3-10.7 through
- 510 30-3-10.10 shall be filed with an order incorporating the equal parent-time schedule.
- 511 (b) An order under this section shall result in 182 overnights per year for one parent, and
- 512 183 overnights per year for the other parent.
- 513 (c) Under the equal parent-time schedule, neither parent is considered to have the child
- 514 the majority of the time for the purposes of Subsection [~~30-3-10.3(4)~~] 30-3-10.3(3) or
- 515 30-3-10.9(5)(c)(ii).
- 516 (d) Child support for the equal parent-time schedule shall be consistent with Section
- 517 78B-12-208.
- 518 (e) (i) A court shall determine which parent receives 182 overnights and which parent
- 519 receives 183 overnights for parent-time.
- 520 (ii) For the purpose of calculating child support under Section 78B-12-208, the
- 521 amount of time to be spent with the parent who has the lower gross monthly
- 522 income is considered 183 overnights, regardless of whether the parent receives
- 523 182 overnights or 183 overnights under Subsection (2)(e)(i).
- 524 (3) (a) Unless the parents agree otherwise and subject to a holiday, the equal parent-time
- 525 schedule is as follows:
- 526 (i) one parent shall exercise parent-time starting Monday morning and ending
- 527 Wednesday morning;
- 528 (ii) the other parent shall exercise parent-time starting Wednesday morning and
- 529 ending Friday morning; and
- 530 (iii) each parent shall alternate weeks exercising parent-time starting Friday morning
- 531 and ending Monday morning.
- 532 (b) The child exchange shall take place:
- 533 (i) at the time the child's school begins; or
- 534 (ii) if school is not in session, at 9 a.m.
- 535 (4) (a) The parents may create a holiday schedule.
- 536 (b) If the parents are unable to create a holiday schedule under Subsection (4)(a), the
- 537 court shall:

- 538 (i) order the holiday schedule described in Section 30-3-35; and
 539 (ii) designate which parent shall exercise parent-time for each holiday described in
 540 Section 30-3-35.
- 541 (5) (a) Each year, a parent may designate two consecutive weeks to exercise
 542 uninterrupted parent-time during the summer when school is not in session.
- 543 (b) (i) One parent may make a designation at any time and the other parent may make
 544 a designation after May 1.
- 545 (ii) A parent shall make a designation at least 30 days before the day on which the
 546 designated two-week period begins.
- 547 (c) The court shall designate which parent may make the earlier designation described in
 548 Subsection (5)(b)(i) for an even numbered year with the other parent allowed to make
 549 the earlier designation in an odd numbered year.
- 550 (d) The two consecutive weeks described in Subsection (5)(a) take precedence over all
 551 holidays except for Mother's Day and Father's Day.

552 Section 9. Section **51-9-408** is amended to read:

553 **51-9-408 . Children's Legal Defense Account.**

- 554 (1) There is created a restricted account within the General Fund known as the Children's
 555 Legal Defense Account.
- 556 (2) The purpose of the Children's Legal Defense Account is to provide for programs that
 557 protect and defend the rights, safety, and quality of life of children.
- 558 (3) (a) The Legislature shall appropriate money from the account for the administrative
 559 and related costs of the following programs:
- 560 [~~(i) implementing the Mandatory Educational Course on Children's Needs for~~
 561 ~~Divorcing Parents relating to the effects of divorce on children as provided in~~
 562 ~~Sections 30-3-4, 30-3-10.3, 30-3-11.3, and the Mediation Program – Child~~
 563 ~~Custody or Parent-time;]~~
- 564 (i) implementing the mandatory courses described in Sections 30-3-11.3 and
 565 30-3-11.4 and the mediation program for child custody or parent-time;
- 566 (ii) implementing the use of guardians ad litem in accordance with Sections
 567 78A-2-703, 78A-2-705, 78A-2-803, and 78B-3-102;
- 568 (iii) the training of attorney guardians ad litem and volunteers as provided in Section
 569 78A-2-803;
- 570 (iv) implementing and administering the Expedited Parent-time Enforcement
 571 Program as provided in Section 30-3-38; and

- 572 (v) implementing and administering the Divorce Education for Children Program.
- 573 (b) The Children's Legal Defense Account may not be used to supplant funding for the
- 574 guardian ad litem program under Section 78A-2-803.
- 575 (4) The following withheld fees shall be allocated only to the Children's Legal Defense
- 576 Account and used only for the purposes provided in Subsections (3)(a)(i) through (v):
- 577 (a) the additional \$10 fee withheld on every marriage license issued in the state of Utah
- 578 as provided in Section 17-16-21; and
- 579 (b) a fee of \$4 shall be withheld from the existing civil filing fee collected on any
- 580 complaint, affidavit, or petition in a civil, probate, or adoption matter in every court
- 581 of record.
- 582 (5) The Division of Finance shall allocate the money described in Subsection (4) from the
- 583 General Fund to the Children's Legal Defense Account.
- 584 (6) Any funds in excess of \$200,000 remaining in the restricted account as of June 30 of
- 585 any fiscal year shall lapse into the General Fund.

586 Section 10. Section **78B-15-610** is amended to read:

587 **78B-15-610 . Joinder of judicial proceedings -- Court reliance of custody and**

588 **parent-time standards -- Mandatory parenting course.**

- 589 (1) Except as otherwise provided in Subsection (2), a judicial proceeding to adjudicate
- 590 parentage may be joined with a proceeding for adoption, termination of parental rights,
- 591 child custody or visitation, child support, divorce, annulment, legal separation or
- 592 separate maintenance, probate or administration of an estate, or other appropriate
- 593 proceeding.
- 594 (2) A respondent may not join a proceeding described in Subsection (1) with a proceeding
- 595 to adjudicate parentage brought under Title 78B, Chapter 14, Utah Uniform Interstate
- 596 Family Support Act.
- 597 (3) A court may rely on Title 30, Chapter 3, Divorce, in determining issues related to
- 598 custody or parent-time.
- 599 (4) (a) If a parentage action is determining issues of custody or parent-time for a child
- 600 and the parents of the child are not married, the parties shall attend the mandatory
- 601 parenting course described in Subsection 30-3-11.3(1)(b) within:
- 602 (i) for the petitioner, 60 days after the day on which the petition is filed; and
- 603 (ii) for the respondent, 30 days after the day on which the respondent is served.
- 604 (b) The clerk of the court shall provide notice to a petitioner that the petitioner is
- 605 required to attend the parenting course.

- 606 (c) A petition shall include information regarding the parenting course when the petition
607 is served on the respondent.
- 608 (d) The court may not grant a final custody or parent-time order in a parentage action
609 until:
- 610 (i) both parties have attended the parenting course; and
611 (ii) both parties have presented a certificate of course completion to the court.
- 612 (5) For a party that is unable to pay the costs of the parenting course, and before the court
613 enters an order for custody or parent-time in the parentage action, the court shall:
- 614 (a) make a final determination of indigency; and
615 (b) order the party to pay the costs of the parenting course if the court determines the
616 party is not indigent.
- 617 (6) (a) Notwithstanding Subsection (4), the court may waive the requirement that the
618 parties attend the parenting course, on the court's own motion or on the motion of one
619 of the parties, if the court determines course attendance and completion are not
620 necessary, appropriate, or feasible, or in the best interest of the parties.
- 621 (b) If the requirement is waived, the court may proceed with entering a final custody or
622 parent-time order.
- 623 Section 11. **Effective date.**
624 This bill takes effect on May 1, 2024.