

DIVORCE ORIENTATION AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lorie D. Fowlke

Senate Sponsor: _____

LONG TITLE

General Description:

This bill adds requirements and incentives to the Mandatory Orientation Course for Divorcing Parties.

Highlighted Provisions:

This bill:

- ▶ changes the mandatory orientation course to a mandatory resource and process orientation course;
- ▶ requires that the course be completed before a petitioner files for divorce;
- ▶ requires that the respondent complete the course no later than 90 days after being served with a petition for divorce;
- ▶ prohibits the court from entering permanent or final orders relating to dissolution, custody, child or spousal support, or property division until the course is completed;
- ▶ sets a list of topics required to be discussed; and
- ▶ requires the Administrative Office of the Courts to work with the Utah Commission on Marriage to evaluate the program each year.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



28 AMENDS:

29 **30-3-11.4**, as last amended by Laws of Utah 2008, Chapter 382



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

32 Section 1. Section **30-3-11.4** is amended to read:

33 **30-3-11.4. Mandatory resource and process orientation course for parties**
34 **considering divorce -- Purpose -- Curriculum -- Exceptions.**

35 (1) There is established a mandatory marital breakdown resource and divorce
36 orientation course for all parties [with minor children] who file a petition for temporary
37 separation or [for a] divorce. [A couple with no minor children are not required, but may
38 choose to attend the course.] The purpose of the course shall be to educate parties about the
39 divorce process [and], its effects and impacts, and to suggest reasonable alternatives to divorce,
40 including counseling and reconciliation resources and services.

41 (2) A petitioner shall attend [~~a divorce~~] an orientation course no [~~more than 60 days~~
42 ~~after~~] less than one or more than 360 days before filing a petition for divorce.

43 (3) [~~The~~] A respondent shall attend [~~the divorce~~] an orientation course [~~no more than~~
44 ~~30~~] not more than 390 days before or 90 days after being served with [~~a~~] the petition for
45 divorce.

46 (4) The clerk of the court shall provide notice to a petitioner of the requirement for the
47 course, and information regarding the course shall be included with the petition or motion,
48 when served on the respondent. The court may not enter permanent or final orders relating to
49 dissolution, custody, child support, alimony, or property division until the party seeking the
50 order has provided proof of completion of the orientation course.

51 (5) The [~~divorce~~] orientation course shall be neutral[;] and unbiased, at least one hour
52 in duration, and include:

53 (a) a discussion of options available as alternatives to divorce including reconciliation
54 services, public and private resources, programs, agencies, and professionals where those
55 services can be explored or accessed;

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

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

59 (d) a discussion of the positive and negative consequences of divorce and the value of
60 marriage to individuals, children, and the community;

61 (e) a discussion of the [~~process of~~] divorce process;

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

63 (i) mediation;

64 (ii) collaborative law; and

65 (iii) litigation; [~~and~~]

66 (g) a discussion of post-divorce resources[-]; and

67 (h) a confidential written inquiry whether each person attending would be interested in
68 exploring possible reconciliation, with confidential reference by the orientation instructor or
69 program to reconciliation service providers, if the response is in the affirmative.

70 (6) [~~The~~] Notwithstanding Subsection 30-3-11.3(3), the course may be provided [~~in~~
71 ~~conjunction~~] before filing for divorce in tandem with the mandatory course for divorcing
72 parents required by Section 30-3-11.3.

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

75 (8) Each participant shall pay the costs of the course, which may not exceed \$20, to the
76 independent contractor providing the course at the time and place of the course.

77 (a) A fee of \$5 shall be collected, as part of the course fee paid by each participant, and
78 deposited in the Children's Legal Defense Account described in Section 51-9-408.

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

84 (9) Appropriations from the General Fund to the Administrative Office of the Courts
85 for the divorce orientation course shall be used to pay the costs of an indigent petitioner who is
86 determined to be impecunious as provided in Subsection (8)(b).

87 (10) The Online Court Assistance Program shall include instructions with the forms for
88 divorce which inform the petitioner of the [~~requirement~~] requirements of this section.

89 (11) Both parties shall attend [~~a divorce~~] an orientation course before a divorce decree

90 may be entered, unless waived by the court. A certificate of completion constitutes evidence to
91 the court of course completion by the parties.

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

95 (13) The Administrative Office of the Courts, in conjunction with the Utah
96 Commission on Marriage, shall adopt a program to evaluate the effectiveness of the mandatory
97 educational course. Progress reports shall be provided annually to the Judiciary Interim
98 Committee.

Legislative Review Note
as of 1-26-10 9:28 AM

Office of Legislative Research and General Counsel

H.B. 255 - Divorce Orientation Amendments

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill will require General Fund appropriations of \$2,700 ongoing and \$13,000 one-time to the Courts. The Division of Child and Family Services may also incur a fiscal impact, the extent of which cannot be currently quantified, but can be handled within existing appropriations.

| | <u>FY 2010</u> <u>Approp.</u> | <u>FY 2011</u> <u>Approp.</u> | <u>FY 2012</u> <u>Approp.</u> | <u>FY 2010</u> <u>Revenue</u> | <u>FY 2011</u> <u>Revenue</u> | <u>FY 2012</u> <u>Revenue</u> |
|------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|
| General Fund | \$0 | \$2,700 | \$2,700 | \$0 | \$0 | \$0 |
| General Fund, One-Time | \$0 | \$13,000 | \$0 | \$0 | \$0 | \$0 |
| Total | \$0 | \$15,700 | \$2,700 | \$0 | \$0 | \$0 |

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.