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Utah Marriage and Divorce Laws

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Introduction

This manual contains a brief explanation of Utah marriage and divorce laws, as well as sample Utah divorce forms (Appendixes). The provided forms are for reference only. Fillable online forms are provided at the Utah Online Court Assistance Program (OCAP) website, and readers are strongly encouraged to use that system as much as possible. The forms not from OCAP were originally created by Steve Averett and patterned after forms used at Utah Legal Services, Inc. and at Utah’s Fourth District Court. Credit is given to all involved for their contributions.
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Chapter 1
Marriage, Divorce, and Annulment

Marriage

Marriage is a sacred and important relationship. Dissolution of a marriage can result in extreme difficulties for each member of a family.¹

Marriage is discussed in sections 30-1-1 to 30-1-39 of the Utah Code. Marriages are generally prohibited and void between close relatives (i.e., marriages between parents and children, ancestors and descendants, siblings, uncles and nieces or nephews, aunts and nieces or nephews, first cousins, and individuals related within but not including the fifth degree of consanguinity).² Marriage is also prohibited and void if one spouse is married to someone else. Applicants who are 16 or 17 may marry only with parental or guardian and judicial consent.

Foreign marriages are valid even if they would be prohibited and void under Utah law, so long as they do not result in a marriage between people related within and including the third degree of consanguinity.³

The parties must receive a marriage license prior to their marriage.⁴ The marriage license may only be used within the state of Utah and must be used within 32 days of the date it was issued.⁵

Marriages may be solemnized by a county clerk (or their designee), the governor, mayors, judges, etc., and by any individual 18 or older who has been authorized by a religious denomination (at their discretion).⁶ Within 30 days after a marriage is solemnized, the individual who solemnized it is to return the license and marriage certificate to the county clerk, who is to file and record it. The penalty for failure to return the license and certificate as specified is an infraction.⁷

Even if a marriage is not solemnized, it is valid if the court or administrative order finds that it results from “a contract between a man and a woman who: (a) are of legal age and capable of giving consent; (b) are legally capable of entering a solemnized marriage”; “(c) have cohabited; (d) mutually assume marital rights, duties, and obligations; and (e) who hold themselves out as and have acquired a uniform and general reputation as husband and wife.”⁸

² Utah Code Ann. § 30-1-1 (LexisNexis Supp. 2022). Marriages between first cousins are allowed if both parties are at least 65 years old or if they are at least 55 years old and unable to reproduce. Utah Code Ann. § 30-1-1(2) (LexisNexis Supp. 2022)
⁸ Utah Code Ann. § 30-1-4.5 (LexisNexis Supp. 2022). In the case of Hansen v. Hansen, 958 P.2d 931 (Utah Ct. App. 1998), the court found that the elements necessary to
petition for an unsolemnized marriage shall be filed during the relationship . . . or within one year following the termination of that relationship.”

Annulment

If a marriage fails, it can be dissolved by annulment or divorce. A marriage may be annulled if it is prohibited or void or if common law grounds exist (e.g., fraud in the inducement of marriage). A party that sues for annulment can request a divorce as alternative relief.

Divorce

The grounds for divorce are impotency, adultery, willful desertion for more than a year, willful failure to provide support, habitual drunkenness, felony conviction, cruel treatment, irreconcilable differences, incurable insanity, or separation of three years under a decree of separate maintenance. Either the husband or the wife must be a county resident for 3 months before filing the divorce action.

At the beginning of a divorce case the petitioner needs to file a cover sheet, certificate of divorce, and complaint. An affidavit of indigency may be filed if the petitioner is low income. Otherwise, the cost of the divorce is $333.

The complaint must be served on the respondent within 120 days after the filing of the complaint or the case is to be dismissed without prejudice. A party may also accept service without being served and an attorney may accept service on behalf of a client. If the action is started by serving the summons and complaint, these documents and the proof of service must be filed within ten days of service or the action is to be “deemed dismissed” and the court has “no further jurisdiction.”

establish a common law marriage must be proven by preponderance of the evidence. In that case no common law marriage was established, although the parties had been previously married, divorced, and then began cohabiting, again. The court found that the wife had not consented to the marriage and that the couple had not consistently held themselves out as husband and wife and had not acquired a uniform and general reputation as husband and wife. In Kelley v. Kelley, 9 P.3d 171 (Utah Ct. App. 2000) a common law marriage was found to exist, based upon these factors.

12 Utah Code Ann. § 30-3-1(3) (LexisNexis 2019).
13 Utah Code Ann. § 30-3-1(2) (LexisNexis 2019).
17 Utah R. Civ. P. 3(a).
Service may be by personal service, by someone 18 or older but not a party or a party’s attorney. Service may also be done through other service (e.g., by publication) if the identity or whereabouts of the person to be served are unknown or cannot be ascertained through reasonable diligence. Proof of service must be filed with the court in accordance with Rule 4(e) of the Utah Rules of Civil Procedure (e.g., a document that says the date, place, and manner of service).

The respondent, who is served in Utah, has 21 days to answer the complaint. Claims that the respondent has against the petitioner are to be included as counterclaims. The respondent can also seek dismissal of the complaint (e.g., for lack of jurisdiction) or try to quash service.

Unless extraordinary circumstances exist, parties to a divorce action must wait at least 30 days after filing a complaint before a hearing may be held. If there are children of the marriage, a divorce may not be granted until both parties have attended a divorce education class, unless this requirement is waived by the court. The court may also order the divorce education for unmarried parents who are involved in a custody or visitation case.

A divorce case can be resolved by default, stipulation, or trial. If the case is resolved by default, the petitioner may need to file a default certificate, to be signed by the court clerk. In default or stipulated cases, the parties will need to file documents called: “Motion for Default” and “Affidavit of Grounds and Jurisdiction.” If the case is resolved by stipulation a copy of the stipulation needs to be filed with the court. In all divorce cases (whether resolved by default, stipulation, or trial), the following two documents must be filed: “Findings of Fact and Conclusions of Law” and “Decree of Divorce.”

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19 Utah R. Civ. P. 4(d)(5).
20 Utah R. Civ. P. 12(a).
21 Utah R. Civ. P. 13(a).
22 See Utah R. Civ. P. 12(b).
26 Utah Code Ann. § 30-3-11.3(4) (LexisNexis 2019).
27 See Utah R. Civ. P. 55.
Chapter 2
Jurisdiction and Service of Process

Jurisdiction In General

Utah courts have divorce jurisdiction over people who have resided in Utah in a marital relationship, even if they have moved away. Rule 3(b) of the Utah Rules of Civil Procedure says that the court has jurisdiction “from the time of the filing of the complaint or service of the summons and a copy of the complaint.”

District Court Jurisdiction Versus Juvenile Court Jurisdiction

Utah district courts generally have jurisdiction over civil matters. The juvenile court has original jurisdiction in proceedings involving minors who have been abused or neglected. The district court can still determine questions of support, custody, and parent-time if they are incidental to case that is in the district court.

The Utah Uniform Child Custody Jurisdiction and Enforcement Act and the Parental Kidnapping Prevention Act of 1980

The Uniform Child Custody Jurisdiction and Enforcement Act (Uniform Act) and the Parental Kidnapping Prevention Act of 1980 (PKPA) determine whether or not Utah is the appropriate jurisdiction for custody determinations, largely considering where the children reside and where they have resided for the past six months.

Utah has adopted the Uniform Act, which is found in sections 78B-12-101 to 78B-12-302 of the Utah Code. It says that Utah courts have child custody jurisdiction if one of the following situations exists: (1) Utah was the child’s home state at the beginning of the case (or was the child's home state within six months of the beginning of the case, even though the child has moved away, so long as a parent still lives in the state); (2) a court of another state does not have jurisdiction or has declined to exercise jurisdiction and the child and a parent have a significant connection with Utah (where substantial evidence exists); (3) all courts having jurisdiction have declined to exercise it because Utah is the more appropriate forum; or (4) no state would have jurisdiction.

Utah continues to have “exclusive, continuing jurisdiction” until either: (1) a Utah court determines that the child (or the child and a parent (or person acting as a parent)) no longer have

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32 "Home State" is defined as “the state in which a child lived with a parent or person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding.” Utah Code Ann. § 78B-13-102(7) (LexisNexis 2018).
a significant connection to Utah and substantial evidence is no longer available, here, or (2) a court finds that the child and parents (or persons acting as a parents) have moved away from Utah. A Utah court that has exclusive continuing jurisdiction may decline to exercise jurisdiction if it is an “inconvenient forum.” A Utah court that has made a ruling about child custody, but “does not have exclusive, continuing jurisdiction” is permitted to modify the ruling “only if it has jurisdiction to make an initial custody determination” Likewise, a Utah court may not modify a child custody determination of another state unless: (1) the Utah court “has jurisdiction to make an initial determination” and the other court either “determines that it no longer has exclusive, continuing jurisdiction” or determines that Utah “would be a more convenient forum,” or (2) either court determines that neither the child or a parent (or person acting as a parent) presently resides in the other state.

A Utah court has temporary emergency jurisdiction if a child is in the state and has been abandoned or needs protection from mistreatment or abuse. Courts may consult with each other if there is a dispute about which is the most appropriate forum.

Under the Uniform Act, each party must include (“if reasonably ascertainable”), under oath, as part of his or her first pleading or in a separate affidavit: (a) the child’s present address, (b) each residence of the child for the previous five years, (c) names and current addresses of persons with whom the child lived during that time, (d) whether the party has participated in other proceedings concerning custody or parent-time of the child and, if so, the court, case number, and date of the child custody determination, (e) whether the party knows of any proceeding that could affect the current proceeding (such as domestic violence, protective orders, termination of parental rights, and adoptions) and, if so, the court, case number, and nature of the proceeding, and (e) whether the party knows the names and addresses of any other people the who have or claim physical custody of the child and, if so, the names and addresses of those people.

Under the PKPA federal courts are given jurisdiction to combat interference with child custody. The PKPA is similar to the Uniform Act in determining which state should have jurisdiction over a child custody action. A court in a state, other than the one which originally entered the divorce decree, is allowed to modify a decree if it has jurisdiction and the original court no longer has jurisdiction or has declined to exercise jurisdiction.

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The PKPA, the Uniform Act, and the United States Constitution require that full faith and credit be given to any custody decree of a court which had jurisdiction. Utah district courts can register other states’ child custody determinations. In addition, child custody interference may be combated through the use of criminal laws, contempt proceedings, tort actions, and preventive measures.

**The Hague Convention on the Civil Aspects of International Child Abduction**


**Venue**

Divorce actions “must be tried in the county in which the cause of action arises” or where the “defendant resides at the commencement of the action”, unless a change of venue is sought.

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46 U.S. Const. art. IV, § 1.
50 See Utah Code Ann. § 78B-3-309 (LexisNexis 2018).
Chapter 3
Child Custody

Child custody issues arise in divorce, legal separation, protective orders, child abuse cases, and paternity cases. Two types of child custody must be considered: legal custody and physical custody. Legal custody has to do with a parent’s rights, privileges, duties, and powers, regarding a child, including authority to make decisions. Physical custody has to do with where the child will live.

The trial court has broad discretion to determine custody.\textsuperscript{51}

Custody in General

In cases where the parties are separated or where a marriage is declared void or dissolved the court shall enter an order of custody and parent-time, and the court shall have continuing jurisdiction to modify the order.\textsuperscript{52} In making custody determinations, the court is to consider the best interests of the child, and may consider the following factors: (1) evidence of domestic violence, neglect or abuse; (2) ability to meet the developmental needs of the child; (3) capacity and willingness to function as a parent; (4) past conduct and moral character; (5) emotional stability; (6) drug abuse, excessive drinking or other causes affecting the ability to function as a parent; (7) intentionally exposing the child to harmful material, including pornography; (8) reasons for having relinquished custody or parent-time in the past; (9) desire for custody or parent-time; (10) religious compatibility; (11) financial responsibility; (12) relationships with step-parents, extended family, etc.; (13) who has been the primary caretaker; (14) previous arrangements in which the child has been happy and well-adjusted; (15) keeping siblings together; (16) wishes and concerns of a mature child; (17) strength of bond with parents; and (18) any other factor the court finds relevant.\textsuperscript{53}

There can be joint, split, or sole custody. Joint custody may be either joint legal custody, joint physical custody, or both. Joint legal custody means sharing the rights, privileges, duties and powers of a parent. Joint physical custody means that both parents have periods of time during which the children reside with them and that both parents contribute to the support and expenses of the child. There is a rebuttable presumption that joint legal custody is in the best interests of the child except when there is evidence of domestic violence, neglect or abuse; special physical or mental needs; physical distance between the residences of the parents; or other factors the court deems relevant.\textsuperscript{54}

\textsuperscript{52} Utah Code Ann. § 30-3-10(1) (LexisNexis 2019).
\textsuperscript{53} Utah Code Ann. § 30-3-10(2)(a-r) (LexisNexis 2019).
\textsuperscript{54} See Utah Code Ann. § 30-3-10.1(3) (LexisNexis 2019) (staying with each parent overnight at least 30% of the time); Utah Code Ann. § 78B-12-102(15) (LexisNexis Supp. 2022) (staying with each parent overnight at least 30% of the time “and both parents contribute to the expenses of the child in addition to paying child support”).
Split custody “means that each parent has physical custody of at least one of the children.” Sole physical custody is where one parent has all the children residing with them and the other parent has some type of parent-time rights.

A presumption favors natural parents and adoptive parents over nonparents. That presumption may be rebutted by evidence that: (1) no strong mutual bond exists, (2) the parent has not demonstrated a willingness to sacrifice their own “interest and welfare” for the child, and (3) the parent lacks sympathy and understanding of the child. Once that presumption is rebutted the custody decision is made based on “the best interests of the child.”

**Joint Custody and Parenting Plans**

The court may not order joint legal and/or joint physical custody unless one or both of the parents files a parenting plan and the court determines it is in the best interests of the child. A parenting plan is a “plan for parenting a child, including allocation of parenting functions” such as maintaining a loving relationship, attending to daily needs, education, assisting with interpersonal relationships, exercising appropriate judgment, and financial support. Any party seeking a “shared parenting arrangement,” such as joint custody, is to “file and serve a proposed parenting plan” when they file their petition, answer, or counterclaim. A party that files a proposed parenting plan, as required, may “move the court for an order of default to adopt the plan if the other party fails to file a proposed parenting plan.” The parenting plan must include provisions concerning future dispute resolution, “allocation of decision-making authority,” residential arrangements, and “provisions addressing notice and parent-time responsibilities in the event of the relocation of either party.” Other parent may make emergency decisions affecting the health or safety of the child. Each parent is allowed to “make decisions regarding the day-to-day care and control of the child” during times that “the child is residing with that parent.” Other provisions may be included “regarding the welfare of the child.”

In deciding whether or not to make an order of joint legal custody and/or joint physical custody, the court is to determine whether the best interest of the child will be served by such an

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56 Hutchison v. Hutchison, 649 P.2d 38, 39-42 (Utah 1982) (vacating trial court decision which had awarded custody of three children to father, including one who was not his biological child); In re H.R.V., 906 P.2d 913, 917 (Utah. Ct. App. 1995) (parental presumption does not apply to later proceedings once it has been rebutted in an early proceeding).
59 Utah Code Ann. § 30-3-10.2 (LexisNexis 2019).
60 Utah Code Ann. § 30-3-10.7 (LexisNexis 2019).
61 Utah Code Ann. § 30-3-10.8(1) (LexisNexis 2019).
62 Utah Code Ann. § 30-3-10.8(3) (LexisNexis 2019).
63 Utah Code Ann. § 30-3-10.9(2) (LexisNexis 2019).
64 Utah Code Ann. § 30-3-10.9(5) (LexisNexis 2019).
65 Utah Code Ann. § 30-3-10.9(6) (LexisNexis 2019).
66 Utah Code Ann. § 30-3-10.9(2) (LexisNexis 2019).
order, considering the following factors: (1) whether or not the “physical, psychological, and emotional needs and development of the child will benefit from joint legal or physical custody;” (2) “the ability of the parents to give first priority to the welfare of the child and reach shared decisions”; (3) co-parenting skills, including ability to “appropriately communicate with the other parent,” “encourage the sharing of love and affection,” and willingness to “allow frequent and continuous contact between the child and the other parent”; (4) “whether both parents participated in raising the child before the divorce”; (5) the geographical proximity of the parents’ homes; (6) the preference of a mature child; (7) the maturity of the parents; (8) “the past and present ability of the parents to cooperate with each other and make decisions jointly;”; and (9) any other relevant factors. An order for joint legal custody or joint physical custody is to provide the terms the court believes are appropriate. Any parental rights not specified in the order “may be exercised by the parent having physical custody” most of the time. The order may be modified or terminated, following a hearing, based on the petition of either party.

Custody Evaluations

A custody evaluation may be used to determine which parent should have custody. Custody evaluations must be done by a state licensed clinical social worker, psychologist, state licensed physician who is board certified in psychiatry, licensed marriage and family therapist, or clinical mental health counselor. Unless otherwise specified, custody evaluators must consider the factors set forth in Utah Code sections 30-3-10 and 30-3-10.2. The court orders performance of a custody evaluation, based on stipulation or motion.

Although one factor in deciding custody is who can give personal rather than surrogate care, it would be an abuse of discretion to change custody because the mom now has to work full time and the dad has a new wife who can stay at home with the children.

Another factor to consider is the identity of the children’s primary caretaker. If the court looks at who has been the primary caretaker, in determining who should get custody, they would look at such things as: preparation and planning of meals; bathing, grooming, and dressing; purchase, cleaning, and care of clothes; medical care; arranging social interactions; arranging

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67 Utah Code Ann. § 30-3-10.2 (LexisNexis 2019).
68 Utah Code Ann. § 30-3-10.3(2) (LexisNexis 2019).
69 Utah Code Ann. § 30-3-10.3(4) (LexisNexis 2019).
70 Utah Code Ann. § 30-3-10.4(1) (LexisNexis 2019).
71 Utah Code Jud. Admin. 4-903(1).
73 See Utah Code Jud. Admin. 4-903(2)-(3).
alternative care, putting children to bed and attending to them at night; disciplining children; educating children; and teaching elementary skills.\(^{76}\)

The district court is required to provide specific findings in custody cases.\(^{77}\)

Gender-based preferences are no longer allowed in child custody cases” because of article IV, section 1 of the Utah Constitution and the 14\(^{th}\) amendment of the U.S. Constitution.\(^{78}\)

Under appropriate circumstances, Utah Code Annotated section 30-3-40 allows noncustodial parents to provide care for their minor children during times when the custodial parent is away for military service.

\(^{76}\) Garska v. McCoy, 278 S.E.2d 357, 363 (W. Va. 1981); cf. Utah Code Ann. § 30-3-10.7(3) (LexisNexis 2019) (“parenting functions” include nurturing, attending to a child’s daily needs, education, assisting with social needs, and providing financial support).

\(^{77}\) Hutchison v. Hutchison, 649 P.2d 38, 42 (Utah 1982).

Parent-time in General

“Parent-time” (or “visitation”) is the term used to describe a noncustodial parent’s right to spend time with his or her child. Parent-time rights are outlined in sections 30-3-32 to -37 of the Utah Code Annotated.

Section 30-3-32 covers the definitions and considerations for parent-time.79 In determining parent-time, the court will consider the “safety and well-being of the child and the parent who experiences domestic or family violence.”80 “Absent a showing by a preponderance of evidence of real harm or substantiated potential harm to the child” it is the entitlement and responsibility of parents and in the best interests of the child to have “frequent, meaningful, and continuing access” to each other following separation or divorce and it is also in the best interests of the child for both parents to be “actively involved in parenting the child.”81

Section 30-3-33 suggests the following “advisory guidelines” concerning parent-time.82 Agreements are preferred.83 Parent-time schedules are to be used to maximize “continuity and stability” in a child’s life.84 Family functions are to be given special consideration.85 Responsibility for pick up, delivery, and return of the child is to be determined by the court at the time the parent-time order is entered.86 If the noncustodial parent is providing transportation, the custodial parent must have the child ready for parent-time and make arrangements to receive the child following parent-time.87 If the custodial parent is providing transportation, the noncustodial parent is to be at the appointed place and at the appointed time to receive the child and “have the child ready to be picked up at the appointed time and place” or make “reasonable alternative arrangements for the custodial parent to pick up the child.”88 Regular school hours are not to be interrupted for parent-time.89 The court may accommodate the parents’ work schedules and may exceed but not diminish standard parent-time.90 The court may alter the parent-time schedule to “reasonably accommodate the distance between the parties and the expense of exercising parent-time.”91 “Neither parent-time nor child support is to be withheld” due to failure to comply with parent-time orders.92 The noncustodial parent is to be informed of significant functions in which

82 Utah Code Ann. § 30-3-33 (LexisNexis 2019).
84 Utah Code Ann. § 30-3-33(2) (LexisNexis 2019).
85 Utah Code Ann. § 30-3-33(3) (LexisNexis 2019).
86 Utah Code Ann. § 30-3-33(4) (LexisNexis 2019).
89 Utah Code Ann. § 30-3-33(7) (LexisNexis 2019).
91 Utah Code Ann. § 30-3-33(9) (LexisNexis 2019).
the child is participating, within twenty-four hours of the time the custodial parent receives notice.93 The noncustodial parent is to have direct access to school and medical records and is to be notified immediately of medical emergencies.94 Each parent is to provide the other parent with their current address, phone number, email address, etc., within twenty-four hours of a change.95 Each parent is to “permit and encourage” reasonable uncensored communication with the child during reasonable hours, by mail or by “virtual parent-time if the equipment is reasonably available.”96 Parental care is considered to be better than surrogate care.97 Each parent is to provide surrogate care providers with the other parent’s name, address, and phone number.98 Unless excused by the court, each parent is to provide the other parent with the name, address, and phone number of surrogate care providers.99 Each parent is entitled to an equal division of major religious holidays that are celebrated by the parents.100 If a child is on a “different parent-time schedule than a sibling” the parents should consider making parent-time “uniform between school aged and nonschool children.”101 In the event of deployment, parents who are service members should resolve custody issues as soon as possible.102

Section 30-3-34 addresses the best interests of the children and justifications for allowing less than a normal amount of parent-time.103 If parties are unable to agree about parent-time the court may establish a schedule that it considers to be in the best interests of the children.104 The advisory guidelines and parent-time schedule are presumed to be in the best interests of the children, “unless the court determines that Section 30-3-35.1 should apply”.105

More or less parent-time is considered appropriate only if there is: physical or significant emotional danger; evidence of domestic violence, neglect, or physical, sexual or emotional abuse involving the child, parent, or other household member of the parent; some distance between the parties’ residences; credible allegations of abuse; “lack of demonstrated parenting skills”; financial inability to “provide adequate food and shelter”; preference of mature children; “incarceration of the noncustodial parent”; shared interests of the child and the noncustodial parent; “involvement or lack of involvement of the noncustodial parent in the school, community, religious, or other related activities of the child”; “availability of the noncustodial parent to care for child when the custodial parent is unavailable”; “a substantial and chronic pattern” of canceled or denied parent-time; lack of bonding between the parents; parent-time

95 Utah Code Ann. § 30-3-33(13) (LexisNexis 2019).
96 Utah Code Ann. § 30-3-33(14) (LexisNexis 2019). “Virtual parent-time” is parent-time that is done through telephone, email, instant messaging, video conferencing, etc. Utah Code Ann. § 30-3-32(1)(e) (LexisNexis 2019).
100 Utah Code Ann. § 30-3-33(17) (LexisNexis 2019).
101 Utah Code Ann. § 30-3-33(18) (LexisNexis 2019).
schedules of siblings; “lack of reasonable alternatives to the needs of a nursing child”; etc. Supervised parent-time can also be ordered.

The schedule is only to be changed by mutual consent or court order.

Parent-time Schedule for Child Under Five Years Old

Sections 30-3-35 and 30-3-35.5 are the parent-time schedules and are considered to be the minimum schedule if the parties cannot agree to something. Section 30-3-35.5 is the minimum schedule for parent-time for children under five years of age. The text of section 30-3-35.5 is as follows.

(1) The parent-time schedule in this section applies to a child who is younger than five years old.
(2) If the parties do not agree to a parent-time schedule, the schedules in Subsections (3) through (8) are considered the minimum parent-time to which the noncustodial parent is entitled to the child.
(3) For a child who is younger than five months old, the noncustodial parent is entitled to:
   (a) three two-hour visits every week; and
   (b) two hours for each holiday granted to the noncustodial parent in the holiday schedule under Subsection (15).
(4) For a child who is at least five months old but younger than nine months old, the noncustodial parent is entitled to:
   (a) three three-hour visits every week; and
   (b) two hours for each holiday granted to the noncustodial parent in the holiday schedule under Subsection (15).
(5) For a child who is at least nine months old but younger than 12 months old, the noncustodial parent is entitled to:
   (a) one eight-hour visit every week;
   (b) one three-hour visit every week; and
   (c) eight hours for each holiday granted to the noncustodial parent in accordance with the holiday schedule under Subsection (15).
(6) For a child who is at least 12 months old but younger than 18 months old, the noncustodial parent is entitled to:
   (a) one three-hour visit every week;
   (b) one eight-hour visit on alternating weekends to be specified by the noncustodial parent or court;

107 Utah Code Ann. § 30-3-34.5 (LexisNexis Supp. 2022); Peterson v. Peterson, 818 P.2d 1305 (Utah Ct. App. 1991) (supervised parent-time ordered because father had persuaded the child to falsely accuse the mother and her new boyfriend of sexual abuse of the child).
(c) an overnight visit on opposite weekends from Subsection (6)(b) beginning at 6 p.m. on Friday and ending at noon on Saturday; and
(d) eight hours for each holiday granted to the noncustodial parent in the holiday schedule under Subsection (15).

(7) For a child who is at least 18 months old but younger than three years old, the noncustodial parent is entitled to:
(a) one weekday evening to be specified by the noncustodial parent or the court:
   (i) beginning at 5:30 p.m. and ending at 8:30 p.m.; or
   (ii) if the child is being cared for during the day outside the child's regular place of residence and with advance notice to the custodial parent, beginning at the time that the child is picked up from the caregiver and ending at 8:30 p.m.;
(b) beginning on the first weekend after the entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending at 7 p.m. on Sunday;
(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection (15); and
(d) extended parent-time for two one-week periods, separated by at least four weeks, at the option of the noncustodial parent, as follows:
   (i) one week of uninterrupted parent-time for the noncustodial parent; and
   (ii) one week of interrupted parent-time where the custodial parent may have an equal amount of weekday parent-time as the noncustodial parent on the same day on which the noncustodial parent is granted weekday parent-time under Subsection (7)(a).

(8) For a child who is at least three years old but younger than five years old, the noncustodial parent is entitled to:
(a) one weekday evening to be specified by the noncustodial parent or the court:
   (i) beginning at 5:30 p.m. and ending at 8:30 p.m.; or
   (ii) if the child is being cared for during the day outside the child's regular place of residence and with advance notice to the custodial parent, beginning at the time that the child is picked up from the caregiver and ending at 8:30 p.m.;
(b) beginning on the first weekend after the entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending at 7 p.m. on Sunday;
(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection (15); and
(d) extended parent-time for two two-week periods, separated by at least four weeks, at the option of the noncustodial parent, as follows:
   (i) two weeks of uninterrupted parent-time, which may be consecutive, for the noncustodial parent; and
   (ii) two weeks of interrupted parent-time, which may be consecutive, where the custodial parent may have an equal amount of weekday parent-time as the noncustodial parent on the same day on which the noncustodial parent is granted weekday parent-time under Subsection (8)(a).

(9) For a child who is at least 18 months old but younger than five years old, the custodial parent is entitled to one week of uninterrupted extended parent-time.

(10) (a) For a child who is nine months old or older, the noncustodial parent shall at least two times a week:
   (i) brief telephone contact at reasonable hours and for a reasonable duration; and 4
(ii) virtual parent-time, if the equipment is reasonably available and the parents reside at least 100 miles apart, at reasonable hours and for reasonable duration.

(b) If the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

(i) the best interests of the child;
(ii) each parent's ability to handle any additional expenses for virtual parent-time; and
(iii) any other factors the court considers material.

c) Virtual parent-time supplements, but does not replace, in-person parent-time.

(11) For a child who is younger than nine months old, unless the parents agree otherwise, parent-time should take place in the home of the custodial parent, an established child-care setting, or other environment familiar to the child.

(12) (a) Changes may not be made to the parent-time schedule under this section, except that if a conflict arises in the parent-time schedule, the following order of precedence shall be applied when determining which parent is entitled to parent-time:

(i) the holiday schedule for Mother's Day or Father's Day under Subsection (15);
(ii) the holiday schedule for the child's birthday, unless a parent is exercising uninterrupted extended parent-time under Subsection (7)(d), (8)(d), or (9) and takes the child away from that parent's residence during the uninterrupted extended parent-time;
(iii) the holiday schedule for any holiday under Subsection (15) that is not Father's Day, Mother's Day, or the child's birthday;
(iv) extended parent-time under Subsection (7)(d), (8)(d), or (9); and
(v) the schedule for weekday or weekend parent-time.

(b) A parent exercising parent-time for the child's birthday may bring other siblings along for the child's birthday.

(13) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the child's attendance at school for that school day.

(14) A parent shall notify the other parent at least 30 days in advance of the parent's plans for the exercise of extended parent-time under Subsection (7)(d), (8)(d), or (9).

Parent-time Schedule for Children Who Are 5 to 18 Years Old

The text of section 30-3-35 (the parent-time schedule for children five to 18 years old) is as follows.

(1) As used in this section, "weekends" include any snow days, teacher development days, or other days when school is not scheduled and that are contiguous to the weekend period.

(2) The parent-time schedule in this section applies to a child who is five to 18 years old.

(3) If the parties do not agree to a parent-time schedule for a child described in Subsection (2), the following schedule is considered the minimum parent-time to which the noncustodial parent is entitled to the child:
(a) (i) one weekday evening to be specified by the noncustodial parent or the court or Wednesday evening if not specified, beginning at 5:30 p.m. and ending at 8:30 p.m.; or
(ii) at the election of the noncustodial parent, one weekday to be specified by the noncustodial parent or the court:
   (A) beginning at the time that the child’s school is regularly dismissed and ending at 8:30 p.m.; or
   (B) if school is not in session, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent’s work schedule, beginning at 9 a.m. and ending at 8:30 p.m.;
(b) (i) beginning on the first weekend after entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending on Sunday at 7 p.m.; or
(ii) at the election of the noncustodial parent and beginning on the first weekend after the entry of the decree, alternating weekends:
   (A) beginning at the time that the child’s school is regularly dismissed on Friday and ending on Sunday at 7 p.m.; or
   (B) if school is not in session, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent’s work schedule, beginning on Friday at 9 a.m. and ending on Sunday at 7 p.m.;
(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection (13); and
(d) extended parent-time with the child when school is not in session for summer break in accordance with Subsection (4).

(4) (a) For extended parent-time with the child under Subsection (3)(d) and at the election of the noncustodial parent, the noncustodial parent is entitled up to four weeks of parent-time with the child, which may be consecutive, when school is not in session for summer break.

(b) For the four weeks of extended parent-time for a noncustodial parent under Subsection (4)(a):
   (i) two weeks, which may be consecutive, shall be uninterrupted parent-time for the noncustodial parent; and
   (ii) two weeks, which may be consecutive, may be interrupted by the custodial parent for a weekday visit on the same day on which the noncustodial parent is granted weekday day parent-time.

(c) A custodial parent is entitled to uninterrupted parent-time with the child for two 134 weeks, which may be consecutive, when school is not in session for summer break.

(5) (a) Each parent shall provide notification to the other parent of the parent’s plans for the exercise of extended parent-time for summer break under Subsection (4).

(b) For the notification requirement under Subsection (5)(a):
   (i) in odd-numbered years:
      (A) the noncustodial parent shall provide notice to the custodial parent by May 1;
   and
      (B) the custodial parent shall provide notice to the noncustodial parent by May 15; and
   (ii) in even-numbered years:
(A) the custodial parent shall provide notice to the noncustodial parent by May 1; and

(B) the noncustodial parent shall provide notice to the custodial parent by May 15.

(c) (i) If a parent fails to provide a notification within the time periods described in Subsection (5)(b), the complying parent may determine the schedule for summer break for the noncomplying parent.

(ii) If both parents fail to provide notice within the time periods described in Subsection (5)(b), the first parent to provide notice may determine the schedule for summer break for the other parent.

(d) If a custodial parent intends to interrupt a noncustodial parent's parent-time under Subsection (4)(b)(ii), the custodial parent shall provide notification to the noncustodial parent of the intent to interrupt parent-time within 10 days after the day on which the custodial parent receives notification of the noncustodial parent's plans for the exercise of interrupted parent-time.

(6) (a) An election should be made by the noncustodial parent at the time of entry of the divorce decree or court order, except that the election may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(b) An election by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.

(7) (a) Changes may not be made to the parent-time schedule under this section, except that if a conflict arises in the parent-time schedule, the following order of precedence shall be applied when determining which parent is entitled to parent-time:

(i) the holiday schedule for Mother's Day or Father's Day under Subsection (13);

(ii) the holiday schedule for the child's birthday, unless a parent is exercising uninterrupted extended parent-time under Subsection (4) and takes the child away from that parent's residence during the uninterrupted extended parent-time;

(iii) the holiday schedule for any holiday under Subsection (13) that is not Father's Day, Mother's Day, or the child's birthday;

(iv) extended parent-time under Subsection (4); and

(v) the schedule for weekday or weekend parent-time.

(b) A parent exercising parent-time for the child's birthday may bring other siblings along for the child's birthday.

(8) A stepparent, grandparent, or other responsible adult designated by the noncustodial parent, may pick up the child for parent-time if the custodial parent is aware of the identity of the individual and the noncustodial parent will be with the child by 7 p.m.

(9) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the child's attendance at school for that school day.

(10) If there is more than one child and the children's school schedules vary for purpose of a holiday, at the option of the parent exercising the holiday or the parent's half of the holiday, the children may remain together for the holiday period beginning the first evening that all children's schools are dismissed for the holiday and ending the evening before any child returns to school.

(11) (a) Telephone contact shall be at reasonable hours and for a reasonable duration.
(b) (i) Virtual parent-time, if the equipment is reasonably available and the parents reside at least 100 miles apart, shall be at reasonable hours and for reasonable duration.

(ii) If the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

(A) the best interests of the child;

(B) each parent's ability to handle any additional expenses for virtual parent-time;

and

(C) any other factors the court considers material.

(c) Virtual parent-time supplements, but does not replace, in-person parent-time.

(12) If there is a child five to 18 years old and a child under five years old and both children are the natural or adopted children of the parties, the parents and the court should consider an upward deviation for parent-time with all the children so that parent-time is uniform based on a schedule under this section.

Optional Parent-time Schedule for Children 5 to 18 Years Old

Utah Code Annotated section 30-3-35.1 says:

(1) As used in this section, "weekends" include any snow days, teacher development days, or other days when school is not scheduled and that are contiguous to the weekend period.

(2) (a) The optional parent-time schedule in this section applies to a child who is five to 18 years old.

(b) The optional parent-time schedule in this section is 145 overnights.

(c) Any impact on child support shall be consistent with joint physical custody, as defined in Section 78B-12-102.

(3) The parents and the court may consider the increased parent-time schedule in this section as a minimum parent-time schedule when the parties agree or the noncustodial parent can demonstrate:

(a) the noncustodial parent has been actively involved in the child's life;

(b) the parties can communicate effectively regarding the child or the noncustodial parent has a plan to accomplish effective communications regarding the child;

(c) the noncustodial parent has the ability to facilitate the increased parent-time;

(d) the increased parent-time would be in the best interest of the child; and

(e) any other factor the court considers relevant.

(4) In determining whether a noncustodial parent has been actively involved in the child's life, the court shall consider:

(a) demonstrated responsibility in caring for the child;

(b) involvement in childcare;

(c) presence or volunteer efforts in the child's school and at extracurricular activities;

(d) assistance with the child's homework;

(e) involvement in preparation of meals, bath time, and bedtime for the child;
(f) bonding with the child; and
(g) any other factor the court considers relevant.

(5) In determining whether a noncustodial parent has the ability to facilitate the increased parent-time, the court shall consider:
(a) the geographic distance between the residences of the parents and the distance between the parents’ residences and the child's school;
(b) the noncustodial parent's ability to assist with after school care;
(c) the health of the child and the noncustodial parent in accordance with Subsection 30-3-10(6);
(d) flexibility of employment or another schedule of the noncustodial parent;
(e) ability to provide appropriate playtime with the child;
(f) history and ability of the noncustodial parent to implement a flexible schedule for the child;
(g) physical facilities of the noncustodial parent's residence; and
(h) any other factor the court considers relevant.

(6) If the parties agree or the court enters an order for the optional parent-time schedule under this section, a parenting plan in compliance with Sections 30-3-10.7 through 30-3-10.10 shall be filed with any order incorporating the optional parent-time schedule described in Subsection (7).

(7) The following schedule is considered the optional parent-time to which the noncustodial parent is entitled to the child:
(a) (i) one weekday evening to be specified by the noncustodial parent or the court or Wednesday evening if not specified, beginning at 5:30 p.m. and ending the following day upon delivering the child to school or at 8 a.m. if there is no school; or
  (ii) at the election of the noncustodial parent, one weekday specified by the noncustodial parent or the court:
    (A) beginning at the time the child's school is regularly dismissed until the following day upon delivering the child to school or at 8 a.m. if there is no school; or
    (B) if there is no school, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent's work schedule, beginning at 8 a.m. and ending on the following day upon delivering the child to school or at 8 a.m. if there is no school;
(b) (i) beginning the first weekend after the entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending on Monday upon delivering the child to school or at 8 a.m. if there is no school; or
  (ii) at the election of the noncustodial parent, beginning the first weekend after the entry of the decree, alternating weekends:
    (A) beginning at the time the child's school is regularly dismissed on Friday and ending on Monday upon delivering the child to school or at 8 a.m. if there is no school; or
    (B) if there is no school, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent's work schedule, beginning on Friday at 9 a.m. and ending on Monday upon delivering the child to school or at 8 a.m. if there is no school;
(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection (16); and
(d) extended parent-time with the child when school is not in session for summer break in accordance with Subsection (8).

(8) (a) For extended parent-time with the child under Subsection (7)(d) and at the election of the noncustodial parent, the noncustodial parent is entitled up to four weeks of parent-time with the child, which may be consecutive, when school is not in session for summer break.

(b) For the four weeks of extended parent-time for a noncustodial parent under Subsection (8)(a):

(i) two weeks, which may be consecutive, shall be uninterrupted parent-time for the noncustodial parent; and

(ii) two weeks, which may be consecutive, may be interrupted by the custodial parent for a weekday visit on the same day on which the noncustodial parent is granted weekday day parent-time.

(c) A custodial parent is entitled to uninterrupted parent-time with the child for two weeks, which may be consecutive, when school is not in session for summer break.

(9) (a) Each parent shall provide notification to the other parent of the parent's plans for the exercise of parent-time for summer break under Subsection (8).

(b) For the notification requirement under Subsection (9)(a):

(i) in odd-numbered years:

(A) the noncustodial parent shall provide notice to the custodial parent by May 1; and

(B) the custodial parent shall provide notice to the noncustodial parent by May 15;

and

(ii) in even-numbered years: (A) the custodial parent shall provide notice to the noncustodial parent by May 1; and

(B) the noncustodial parent shall provide notice to the custodial parent by May 15.

(c) (i) If a parent fails to provide a notification within the time periods described in Subsection (9)(b), the complying parent may determine the schedule for summer break for the noncomplying parent.

(ii) If both parents fail to provide notice within the time periods described in Subsection (9)(b), the first parent to provide notice may determine the schedule for summer break for the other parent.

(d) If a custodial parent intends to interrupt a noncustodial parent's parent-time under Subsection (8)(b)(ii), the custodial parent shall provide notification to the noncustodial parent of the intent to interrupt parent-time within 10 days after the day on which the custodial parent receives notification of the noncustodial parent's plans for the exercise of interrupted extended parent-time.

(10) (a) An election should be made by the noncustodial parent at the time of entry of the divorce decree or court order, except that the election may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(b) An election by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.

(11) (a) Changes may not be made to the parent-time schedule under this section, except that if a conflict arises in the parent-time schedule, the following order of precedence shall be applied when determining which parent is entitled to parent-time:

(i) the holiday schedule for Mother's Day or Father's Day under Subsection (16);
(ii) the holiday schedule for the child’s birthday, unless a parent is exercising uninterrupted extended parent-time under Subsection (8) and takes the child away from that parent’s residence during the uninterrupted extended parent-time;

(iii) the holiday schedule for any holiday under Subsection (16) that is not Father’s Day, Mother’s Day, or the child’s birthday;

(iv) extended parent-time under Subsection (8); and

(v) the schedule for weekday or weekend parent-time.

(b) A parent exercising parent-time for the child’s birthday may bring other siblings along for the child’s birthday.

(12) A stepparent, grandparent, or other responsible adult designated by the noncustodial parent, may pick up the child for parent-time if the custodial parent is aware of the identity of the individual and the noncustodial parent will be with the child by 7 p.m.

(13) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the child’s attendance at school for that school day.

(14) If there is more than one child and the children’s school schedules vary for purpose of a holiday, at the option of the parent exercising the holiday or the parent's half of the holiday, the children may remain together for the holiday period beginning the first evening that all children’s schools are dismissed for the holiday and ending the evening before any child returns to school.

(15) If there is a child five to 18 years old and a child under five years old and both children are the natural or adopted children of the parties, the parents and the court should consider an upward deviation for parent-time with all the children so that parent-time is uniform based on a schedule under this section.

Special Circumstances

Section 30-3-36 deals with special circumstances.\textsuperscript{111} It provides that children should be gradually reintroduced to an unfamiliar noncustodial parent.\textsuperscript{112} It also provides that, when a child travels with a parent, the other parent should have the itinerary of travel dates, destinations, places to be reached, and the name and phone number of a knowledgeable third party.\textsuperscript{113}

Relocation

Section 30-3-37 deals with relocation.\textsuperscript{114} A parent who is relocating (150 miles or more from the “residence specified in the court’s decree”) needs to give “60 days advance written notice of the intended relocation to the other parent.”\textsuperscript{115} The court may

\textsuperscript{111} See Utah Code Ann. § 30-3-36 (LexisNexis 2019).

\textsuperscript{112} Utah Code Ann. § 30-3-36(1) (LexisNexis 2019).

\textsuperscript{113} Utah Code Ann. § 30-3-36(2) (LexisNexis 2019).


\textsuperscript{115} Utah Code Ann. § 30-3-37(1)-(2) (LexisNexis Supp. 2022). The notice is to contain statements affirming the court-determined or parties-agreed parent-time schedule and affirming that the parents will not interfere with parent-time arrangements or schedule. Utah Code Ann. § 30-3-37(2) (LexisNexis Supp. 2022).
“make appropriate orders regarding the parent-time and costs”, considering the best interest of the child and other factors.\textsuperscript{116} “If the court determines that relocation is not in the best interest of the child, and the custodial parent relocates, the court may order a change of custody.”\textsuperscript{117}

“Unless otherwise ordered by the court, upon relocation,” the noncustodial parent is to have the child(ren) (ages 5 to 18) for one-half of the summer break (or “off-track time”) as well as Thanksgiving (during odd numbered years), spring break (during odd numbered years), winter break (during even numbered years), and fall break (during even numbered years).\textsuperscript{118} In addition, “at the option and expense of the noncustodial parent”, the noncustodial parent is entitled to one weekend per month.\textsuperscript{119}

For children under the age of five, the court is to set a parent-time schedule based on the child(ren)’s age and developmental needs, distance between parents, travel arrangements and costs, level of attachment, and other relevant factors.\textsuperscript{120}

Unless the noncustodial parent specifies otherwise or unless there is a conflict with holiday parent-time, this monthly weekend parent-time is to be on the last weekend of the month.\textsuperscript{121} If there is a conflict with holiday parent-time, this monthly weekend parent-time is to be on the next to last weekend of the month.\textsuperscript{122} This monthly weekend parent-time is to include teacher development days and snow days that are “contiguous with” the monthly weekend parent-time.\textsuperscript{123}

If “finances and distance preclude the exercise of minimum parent-time for the noncustodial parent during the school year, the court should consider awarding more time for the noncustodial parent during the summer time if it is in the best interests of the children.”\textsuperscript{124} “Unless otherwise ordered by the court the relocating party shall be responsible for all of the child’s travel expenses” related to this relocation parent-time, except for half of the travel expense for the summer visit.\textsuperscript{125} A noncustodial parent who has been found in contempt for failure to pay child support, is responsible for all of the child’s parent-time travel expenses, unless the court orders otherwise.\textsuperscript{126}

\textsuperscript{116} Utah Code Ann. § 30-3-37(3)-(4) (LexisNexis Supp. 2022).
\textsuperscript{117} Utah Code Ann. § 30-3-37(4) (LexisNexis Supp. 2022).
\textsuperscript{118} Utah Code Ann. § 30-3-37(6) (LexisNexis Supp. 2022).
\textsuperscript{120} Utah Code Ann. § 30-3-37(8) (LexisNexis Supp. 2022).
\textsuperscript{121} Utah Code Ann. § 30-3-37(8) (LexisNexis Supp. 2022).
\textsuperscript{122} Utah Code Ann. § 30-3-37(8) (LexisNexis Supp. 2022).
\textsuperscript{123} Utah Code Ann. § 30-3-37(8) (LexisNexis Supp. 2022).
\textsuperscript{125} Utah Code Ann. § 30-3-37(12) (LexisNexis Supp. 2022).
The court has discretion to order a minimum of thirty days of uninterrupted parent-time with the noncustodial parent during extended parent-time, and the court is to specify who “is responsible for the child’s travel expenses.”\textsuperscript{127}

A parent who does not comply with a notice of relocation “shall be in contempt of the court’s order.”\textsuperscript{128}

Under certain circumstances, section 30-3-40 of the Utah Code Annotated allows families members of a noncustodial parent to exercise the noncustodial parent’s parent-time rights while that parent is away in military service.

**Noncompliance with a Parent-time Order**

The court may award costs and attorney fees to a prevailing parent or close family member for noncompliance with a visitation or parent-time order. The court may also order “any other appropriate equitable remedy” including payment of childcare and transportation expenses and lost wages.\textsuperscript{129}

\textsuperscript{129} Utah Code Ann. § 30-3-5 (9) ((a)-(d) (LexisNexis Supp. 2022).
Utah’s Child Support Guidelines

Utah’s child support guidelines act as a rebuttable presumption for determining the amount of child support.\(^1\)\(^3\)\(^0\) There are instructions for calculating child support for sole,\(^1\)\(^3\)\(^1\) joint,\(^1\)\(^3\)\(^2\) and split custody\(^1\)\(^3\)\(^3\).

The tables for calculating child support amounts are found in sections 78B-12-301 and 78B-12-302 of the Utah Code Annotated.\(^1\)\(^3\)\(^4\) If the combined monthly income exceeds the highest level specified in the tables, the judge sets support on a case-by-case basis, but the amount can not be less than the highest amount shown in the tables.\(^1\)\(^3\)\(^5\) If the adjusted gross income of a parent is $649 or less, the amount of child support is to be calculated on a case-by-case basis, but is not to be less than $30 per month.\(^1\)\(^3\)\(^6\)

The guidelines can be rebutted, and, if so, support will be calculated based upon the standard of living, age, relative wealth and income, ability to earn, needs of each party and the child, and responsibility for the support of others.\(^1\)\(^3\)\(^7\) Worksheets for calculating child support are found in appendix G of the Utah Code Annotated court rules volume and in the appendices in the forms portion of this book.

Calculating Income

Adjusted gross income is to be used in calculating child support and only the income of natural or adoptive parents may be considered.\(^1\)\(^3\)\(^8\) Gross income is “prospective income from any source”, such as salaries, wages, commissions, royalties, bonuses, rents, gifts, prizes, dividends, severance pay, pensions, interest, trust income, alimony from previous marriages, annuities, capital gains, Social Security, workers’ compensation, unemployment, disability insurance, and “payments from ‘nonmeans-tested’ government programs.”\(^1\)\(^3\)\(^9\) Excluded from gross income are: Supplemental Security Income, Social Security Disability Insurance, Medicaid, General Assistance, SNAP benefits, housing subsidies, benefits received under the Job Training Partnership Act, etc.\(^1\)\(^3\)\(^0\) Income is

\(^{133}\) Utah Code Ann. § 78B-12-209 (LexisNexis 2018).
\(^{134}\) Appendix 13 of the forms portion of this book shows the child support tables.
\(^{135}\) See Utah Code Ann. § 78B-12-206 (LexisNexis 2018).
\(^{137}\) Utah Code Ann. § 78B-12-202(3) (LexisNexis 2018).
\(^{138}\) Utah Code Ann. § 78B-12-207 (LexisNexis 2018).
\(^{139}\) Utah Code Ann. § 78B-12-203(1) (LexisNexis 2018).
\(^{140}\) Utah Code Ann. § 78B-12-203(3) (LexisNexis 2018).
based upon one full-time 40-hour job unless, just prior to the original support order, it is found that the parent normally and consistently worked more than 40 hours per week at their job.\textsuperscript{141} Income from self-employment or business is to be calculated at the gross income minus “expenses necessary to allow the business to operate at a reasonable level”.\textsuperscript{142} When possible, income should be calculated “on an annual basis and then recalculated to determine the average gross monthly income.”\textsuperscript{143} Income verification is required.\textsuperscript{144} Incarceration of at least six months may not be treated as voluntary unemployment by the office in establishing or modifying a support order.\textsuperscript{145}

In certain cases income may be imputed.\textsuperscript{146} This is allowed only by stipulation, default, or, in contested cases, after a hearing and a judge or “presiding officer in an administrative proceeding enters findings of fact as to the evidentiary basis for the imputation.”\textsuperscript{147} Income is imputed on the basis of employment potential and probable earnings as considering, to the extent known: employment opportunities, work history, occupational qualifications, educational attainment, literacy, age, health, criminal record, other employment barriers and background factors, and prevailing earnings and job availability.\textsuperscript{148} If there is “no recent work history or a parent’s occupation is unknown,” income may “be imputed at least at the federal minimum wage for a 40-hour work week.”\textsuperscript{149} Income is not to be imputed “if any of the following conditions exist and the condition is not of a temporary nature:” (1) reasonable child care costs would “approach or equal” the amount the custodial parent could make; (2) the “parent is physically or mentally unable to earn minimum wage;” (3) the parent is receiving job training to “establish basic job skills;” or (4) “unusual emotional or physical needs of a child require the custodial parent’s presence in the home.”\textsuperscript{150} The fact that someone is pursuing a bachelor’s degree does not exempt him from having income imputed.\textsuperscript{151}

Social security benefits given to a child because of the earnings of a parent are to be a credit for that parent against their child support obligation.\textsuperscript{152}

Child support is to be reduced by 50% for each child during times when the child (by court order or written agreement) is with the noncustodial parent at least 25 of 30 consecutive days.\textsuperscript{153} Child support is to be reduced by 25% for each child during times

\begin{footnotesize}
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\item \textsuperscript{141} Utah Code Ann. § 78B-12-203(2) (LexisNexis 2018).
\item \textsuperscript{142} Utah Code Ann. § 78B-12-203(4) (LexisNexis 2018).
\item \textsuperscript{143} Utah Code Ann. § 78B-12-203(5)(a) (LexisNexis 2018).
\item \textsuperscript{144} Utah Code Ann. § 78B-12-203(5)(b) (LexisNexis 2018).
\item \textsuperscript{145} Utah Code Ann. § 78B-12-203(6) (LexisNexis 2018).
\item \textsuperscript{146} See Utah Code Ann. § 78B-12-203(7) (LexisNexis 2018).
\item \textsuperscript{147} Utah Code Ann. § 78B-12-203(8)(a) (LexisNexis 2018).
\item \textsuperscript{148} Utah Code Ann. § 78B-12-203(8)(b) (LexisNexis 2018).
\item \textsuperscript{149} Utah Code Ann. § 78B-12-203(8)(c) (LexisNexis 2018). 29 U.S.C. § 206 says that minimum wage is $7.25 per hour.
\item \textsuperscript{150} Utah Code Ann. § 78B-12-203(8)(d) (LexisNexis 2018).
\item \textsuperscript{151} Mancil v. Smith, 18 P.3d 509, 512 (Utah Ct. App. 2000).
\item \textsuperscript{152} Utah Code Ann. § 78B-12-203(9) (LexisNexis 2018).
\item \textsuperscript{153} Utah Code Ann. § 78B-12-216(1)(a)(LexisNexis 2018).
\end{itemize}
\end{footnotesize}
when the child (by court order or written agreement) is with the noncustodial parent at least 12 of 30 consecutive days.\textsuperscript{154}

**Materials That Need to be Filed**

In any matter in which child support is ordered, the moving party needs to submit a child support worksheet, financial verification, a written statement that says whether or not the amount of support is consistent with the child support guidelines, and identification information.\textsuperscript{155}

**Termination of Child Support**

Child support terminates at age 18 (or upon graduation from high school in the normal and expected year of graduation if that is after the child turns 18), or upon the child’s death, emancipation, marriage, entry into military service, or adoption.\textsuperscript{156} However, “courts in divorce actions may order support to age 21.”\textsuperscript{157}

**Medical and Child Care Expenses**

Every decree of divorce is to include “an order assigning responsibility for the payment of reasonable and necessary medical and dental expenses of a dependent child” and an order requiring insurance if available “at a reasonable cost”.\textsuperscript{158} A parent will be ordered to provide insurance, if available at a reasonable cost, and the parents are to equally share the cost of insurance premiums and uninsured expenses.\textsuperscript{159} Both are to give timely information to each other about insurance and expenses.\textsuperscript{160}

\textsuperscript{154} Utah Code Ann. § 78B-12-216(1)(b) (LexisNexis 2018).
\textsuperscript{155} Utah Code Ann. § 78B-12-201 (LexisNexis 2018). The financial verification is to include such things as year-to-date pay stubs and completed tax returns for the most recent year. Utah Code Ann. § 78B-12-203(5) (LexisNexis 2018). The identifying information is to include the party’s social security number, driver’s license number, addresses, phone numbers; it is also to include the name, address, and phone number of their employer; upon entry of a support order, each party is to submit this same identifying information. Utah Code Ann. § 78B-12-201(3) (LexisNexis 2018); Utah Code Ann. § 62A-11-304.4(1) (LexisNexis 2018). The social security number of anyone who is subject to a support order is to be placed in the records relating to the case. Utah Code Ann. § 78B-12-116 (LexisNexis 2018).
\textsuperscript{156} See Utah Code Ann. § 78B-12-219(1) (LexisNexis Supp. 2022). The child support amount is adjusted for the remaining children based upon the child support table that was used in setting the most recent order, rather than just reducing it “by a per child amount derived from the base child support award originally ordered.” Utah Code Ann. § 78B-12-219(1)-(2) (LexisNexis Supp. 2022).
\textsuperscript{157} Utah Code Ann. § 15-2-1 (LexisNexis 2013).
\textsuperscript{158} Utah Code Ann. § 30-3-5(2)(a)-(b) (LexisNexis Supp. 2022).
\textsuperscript{159} Utah Code Ann. § 78B-12-212(2)(b)-(4) (LexisNexis Supp. 2022).
\textsuperscript{160} See Utah Code Ann. § 78B-12-212(8)-(10) (LexisNexis Supp. 2022).
Each parent is to share equally in reasonable work-related child care expenses.¹⁶¹ These amounts are to be paid monthly.¹⁶² Written verification is required of the cost and the provider’s identity.¹⁶³ Changes in the child care arrangements need to be disclosed to the other party within thirty days or the parent may not get reimbursed for the expenses.¹⁶⁴

**Tax Deduction**

26 U.S.C. § 71 says that, for tax purposes, a person’s gross income includes alimony but not child support. Section 78B-12-217 of the Utah Code Annotated makes no presumption about who should get to claim a child for federal and state income tax purposes; however, the court or administrative agency, in awarding the tax exemption, is to consider the “relative contribution of each parent to the cost of raising the child” and “the relative tax benefit to each parent.” 26 U.S.C. § 152(c)(4)(B) says that the parent claiming a child as a dependent for tax purposes is to be the parent the child resides with most of the time.

**Bankruptcy**


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Alimony is a continuation of each spouse’s duty to support and maintain the other. The court has “broad latitude” in setting alimony and these determinations “will not be lightly disturbed.” The court is to “consider at least the following factors in determining alimony”: (1) the financial condition and needs of the person who is to receive alimony, (2) the earning capacity of the person who is to receive alimony “including the impact of diminished workplace experience resulting from primarily caring for a child of the payor spouse”; (3) the ability of the person who is to pay alimony to provide support, (4) “the length of the marriage”, (5) whether or not the “recipient spouse has custody of minor children” who require support, (6) whether or not the “recipient spouse worked in a business” that was “owned or operated by the payor spouse”, and (7) whether or not “the recipient spouse directly contributed to” an “increase in the payor spouse’s skill by paying for education received by the payor spouse or enabling the payor spouse to attend school during the marriage.” The court is to consider all sources of income including overtime, second jobs, self employment, etc.

The court may consider fault in determining alimony. In *Childs v. Childs*, 967 P.2d 942, 946-47 (Utah Ct. App. 1998), a woman was given a lower amount of alimony, in part, because of her fault in engaging in an extra-marital affair.

Generally, the court should look at the standard of living that existed at the time of the separation, in determining alimony; but the court is to “consider all relevant facts and equitable principles” and “may, in its discretion, base alimony on the standard of living that existed at the time of trial.” In short-term marriages, “when no children have been conceived or born during the marriage, the court may consider the standard of living that existed at the time of the marriage.” “The court may, under appropriate circumstances, attempt to equalize the parties’ respective standards of living.”

If a long-term marriage is ending on the “threshold of a major change in the income of one of the spouses due to the collective efforts of both,” the change is to “be considered in dividing the marital property and in determining” alimony. Similarly, if “one spouse’s earning capacity has been greatly enhanced” by “the efforts of both spouses during the marriage, the court may make a compensating adjustment” in regard

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to alimony as well as in the division of marital property.\textsuperscript{174} In short-term marriages, where “no children have been conceived or born during the marriage, the court may” restore each party to the condition that “existed at the time of the marriage.”\textsuperscript{175}

Alimony generally is not to be ordered for a period longer than the number of years of the marriage.\textsuperscript{176}

Unless income withholding is involved or otherwise ordered by the court, half of alimony is to be paid on the fifth day of each month and the other half on the twentieth of the month.\textsuperscript{177}

Unless a decree of divorce specifically provides otherwise, alimony “automatically terminates upon the remarriage or death of the former spouse” but is to resume if “the remarriage is annulled and found to be void ab initio” and the paying spouse is “made a party to the action.”\textsuperscript{178} An order of alimony also terminates “upon establishment by the party paying alimony that the former spouse, after the order for alimony is issued, cohabits with another person even if the former spouse is not cohabitating with another person when the party paying alimony files the motion to terminate.” The party seeking termination must do so no later than one year from the day the party knew or should have known about the cohabitation.\textsuperscript{179} The court may not order a party to pay alimony to a current spouse and shall terminate an order of temporary alimony to the current spouse, if the party establishes that the current spouse cohabits during the pendency of the divorce action.


\textsuperscript{175} Utah Code Ann. § 30-3-5(10)(g) (LexisNexis Supp. 2022).
\textsuperscript{177} Utah Code Ann. § 30-3-10.5 (LexisNexis 2019).
\textsuperscript{178} Utah Code Ann. § 30-3-5(12)(a)-(b) (LexisNexis Supp. 2022).
\textsuperscript{179} Utah Code Ann. § 30-3-5(14)(a)-(b) (LexisNexis Supp. 2022).
Chapter 7
Debts

In a divorce, the court may include equitable orders relating to debts.\textsuperscript{180} The court has “considerable latitude of discretion in adjusting financial . . . interests.”\textsuperscript{181}

There is no fixed formula for distributing a marital estate.\textsuperscript{182} The court could consider such things as each party’s ability to pay, whether the debt was jointly incurred, whether or not the debt can be documented, when the debt was incurred, and who is going to receive the property.

Spouses are not liable for each other’s separate debts that were incurred during the marriage, other than family expenses.\textsuperscript{183} The court may specify which party is responsible for payment of joint debts incurred during the marriage, require the parties to notify creditors regarding the court’s division of the debts, and provide for enforcement.\textsuperscript{184}

A decree cannot alter or end any joint contractual obligation between the parties and a creditor.\textsuperscript{185} However, a creditor cannot make a negative credit report against a party who has not been ordered to pay, unless they have first demanded payment by the other party, who then failed to pay.\textsuperscript{186} When there is a court order or an administrative order, providing for payment of children’s medical expenses, a creditor (who has a copy of the order) may be prohibited from charging more than the court-ordered amount, of a parent who has paid their court-ordered portion in full, and from making a negative credit report regarding that parent.\textsuperscript{187} If one party ultimately fails to repay a joint debt, as ordered by the court, the remedy is a contempt order and judgment for money paid.

Some parties try to insure future liability for debts, even after bankruptcy, by putting “hold harmless” language in the decree (i.e., one party agrees to pay certain debts and to hold the other party harmless from liability on those debts). This will only help if payment of those debts is “in the nature of support”.\textsuperscript{188}

\textsuperscript{180} Utah Code Ann. § 30-3-5(2) (LexisNexis Supp. 2022).
\textsuperscript{181} Mitchell v. Mitchell, 527 P.2d 1359, 1360 (Utah 1994).
\textsuperscript{182} Turner v. Turner, 649 P.2d 6, 8 (Utah 1982).
\textsuperscript{183} Utah Code Ann. § 30-2-5 (LexisNexis 2019). These are the “expenses of the family and the education of the children” and the husband and wife “may be sued jointly or separately” for these expenses. Utah Code Annotated § 30-2-9 (LexisNexis 2019). Case law has found family expenses to include expenses incurred while a wife was ill, Izatt v. Izatt, 627 P.2d 49, 52 (Utah 1981), as well as expenses related to children, Gulley v. Gulley, 570 P.2d 127, 128-29 (Utah 1977).
\textsuperscript{185} Utah Code Ann. § 15-4-6.5(1) (LexisNexis 2013).
\textsuperscript{186} Utah Code Ann. § 15-4-6.5(3) (LexisNexis 2013).
\textsuperscript{187} Utah Code Ann. § 15-4-6.7 (LexisNexis Supp. 2022).
\textsuperscript{188} See Beckmann v. Beckmann, 685 P.2d 1045 (Utah 1984).
Debt payment can be considered part of alimony, but 26 U.S.C. § 71(a) says that alimony is taxable. Debts could also be considered as additional child support, but the ongoing duty to pay child support ends when the youngest child turns eighteen. 189

If a creditor seeks to take a debtor’s property for unpaid debts, certain items of property are exempt, such as $42,000 of the value of the “primary personal residence” 190 The following things are also among those that are exempt: alimony, burial plots, health aids, some appliances and furniture, wearing apparel, year’s supply of provisions, and bedding. 191 Also exempt is a motor vehicle, “not exceeding $3,000 in value”. 192 However, a creditor may collect against exempt property, other than unemployment benefits, to enforce certain claims (e.g., alimony and support). 193 A person’s earnings may be garnished under Rule 64D of the Utah Rules of Civil Procedure. This cannot exceed 25% of a person’s disposable earnings (50% if for child support). 194

11 U.S.C. § 523(a)(5) says that domestic support obligations are not dischargeable, in bankruptcy. The federal or state court decides if the debt was in the form of alimony or support. 195 Types of bankruptcy include Chapter 7 (liquidation (voluntary or involuntary)); Chapter 13 (individual reorganization of debts); Chapter 11 (business reorganization of debts); Chapter 12 (farm reorganization of debts). 196 11 U.S.C. § 362(b)(2) says that bankruptcy proceedings do not “operate as a stay” of a civil action in regard to child custody/visitation or dissolution of a marriage or “collection of a domestic support obligation from property that is not property of the [bankruptcy] estate”.

194 Utah R. Civ. P. 64D(a)(1).
196 More information about these different types of bankruptcy can be found in Title 11 of the United States Code.
Chapter 8
Property Division

In a divorce, the court may include equitable orders relating to property.\textsuperscript{197} Orders must be “fair and reasonable to all concerned.”\textsuperscript{198} The court has “considerable latitude of discretion” in “adjusting . . . property interests” in a divorce action.\textsuperscript{199} The court’s “disposition of property” should be “as it deems fair, equitable, and necessary for the protection and welfare of the parties.”\textsuperscript{200}

The court first needs to “properly categorize the parties’ property as part of the marital estate or as the separate property of one or the other.”\textsuperscript{201} There is a presumption that each party is “entitled to all of his or her separate property and fifty percent of the marital property.\textsuperscript{202} “[T]he court should then consider the existence of exceptional circumstances. . . .”\textsuperscript{203}

There is “no fixed formula” for dividing property in a divorce.\textsuperscript{204}

Pension plans that have accrued during the marriage are “subject to equitable distribution”. In \textit{Woodward v. Woodward}, 656 P.2d 431, 433-434 (Utah 1982), the court ruled that equitable division of a pension plan means giving each spouse one-half of the benefits earned during the marriage (i.e., one-half of the “portion of the retirement benefits represented by the number of years of the marriage divided by the number of years the [wage-earner’s] employment”).\textsuperscript{205} This formula may be modified, however, to adapt to the varied circumstances related to a defined benefit plan so long as the division is still equitable.\textsuperscript{206}

A QDRO (domestic relations order) is required in order to give ERISA retirement plan benefits to someone other than the participant (e.g., a former spouse). 29 U.S.C. § 1003 says that, generally, this applies “to any employee benefit plan” that is established or maintained by an employer that is “engaged in commerce or in any industry or activity affecting commerce”. 29 U.S.C. § 1056(d)(3)(C) says that a domestic relations order must provide the participant’s name and address, all alternative payee’s names and addresses, the amount or percentage of their benefits, the number of payments, and a list of each plan to which the order applies.

\textsuperscript{197} Utah Code Ann. § 30-3-5(2) (LexisNexis Supp. 2022).
\textsuperscript{198} \textit{In re Estate of Knickerbocker}, 912 P.2d 969, 977 (Utah 1996) (citing § 30-3-5).
\textsuperscript{200} \textit{Mathie v. Mathie}, 363 P.2d 779, 784 (Utah 1961).
\textsuperscript{205} \textit{Woodward v. Woodward}, 656 P.2d 431, 433-434 (Utah 1982).
\textsuperscript{206} \textit{Granger v/ Granger}, 374 P.3d 1043 (Utah Ct. App. 2016).
Chapter 9
Temporary Orders

Some cases require a temporary court order regarding the rights and obligations of the parties. There are several types of temporary orders that may be used in a domestic relations case: ex parte temporary restraining orders, protective orders, and other temporary orders.

Ex Parte Temporary Restraining Orders

Ex parte temporary restraining orders (ordered without first giving notice to the other party) are possible (1) it clearly appears that immediate or irreparable injury, loss, or damage will result prior to a hearing, and (2) documentation of efforts to give notice to the opposing party are provided to the court. Temporary orders generally expire within fourteen days. This rule does not limit the equitable powers of the court in administering temporary restraining orders in domestic relations cases. (Form 15 of the Utah Rules of Civil Procedure provides a sample application for temporary restraining order.)

Protective Orders

In situations where there has been cohabitant abuse, the victim may get a protective order or an ex parte protective order. The following things can be included in an ex parte protective order: (1) a prohibition against further abuse or threats of abuse, (2) a prohibition against harassment or communication, (3) exclusion from the abuse victim’s residence, place employment, etc., (4) prohibition against use or possession of a weapon, (5) use of personal effects and an automobile, (6) maintenance of an existing wireless telephone contact or account, (7) temporary custody of the children, (8) assistance of the office of the Guardian Ad Litem, (9) other relief needed to provide safety and welfare, and (10) child support and alimony (income verification needs to be brought to the hearing). (Violation of items 1-5 are criminal offenses. Violation of items 6, 8, and 9 are civil offenses.)

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207 See Utah R. Civ. P. 65A(b).
208 See Utah Code Ann. §§ 78B-7-103 (LexisNexis 2018).
210 Utah R. Civ. P. 65A(b)(2).
211 Utah R. Civ. P. 65A(f).
212 Utah Code Ann. § 78B-7-106(1) (LexisNexis 2018) (protective orders require prior notice to the other party but ex parte protective orders do not).
213 Utah Code Ann. § 78B-7-106(2) (LexisNexis 2018).
Expedited service is required of the sheriff’s office in these cases.\textsuperscript{216} A hearing is to be held within 20 days after the ex parte order is issued.\textsuperscript{217}

The civil portion of the final order is generally to last 150 days or less.\textsuperscript{218} After two years, a hearing may be held to dismiss the criminal portion of the final order.\textsuperscript{219} Violation of the “safety” provisions of a protective order is a class A misdemeanor.\textsuperscript{220} Violations of the other provisions is subject to a contempt proceeding.\textsuperscript{221}

Other Temporary Orders

Sometimes parties need non-emergency, temporary relief, prior to the divorce trial (e.g., for support during the pendency of the action). This is allowed by Utah Code Annotated §§ 30-1-17.2(1), 30-3-3(3), and 78A-2-220(1)(i). The court is given the motion, a memorandum, a proposed order, and a request to submit for a decision; the court may order a hearing.\textsuperscript{222} Judgments and written motions need to be served on the opposing party or their attorney, in accordance with Rule 5(b) of the Utah Rules of Civil Procedure.

\begin{footnotes}
\item[216] Utah Code Ann. § 78B-7-106(9) (LexisNexis 2018).
\item[217] Utah Code Ann. § 78B-7-107(1)(a) (LexisNexis 2018).
\item[218] See Utah Code Ann. § 78B-7-106(7)(a) (LexisNexis 2018).
\item[220] See Utah Code Ann. § 78B-7-106(6)(b) (LexisNexis 2018).
\item[221] See Utah Code Ann. § 78B-7-106(6)(c) (LexisNexis 2018).
\item[222] See Utah R. Civ. P. 7.
\end{footnotes}
Chapter 10  
Decrees of Divorce

The final document in a divorce case is the decree of divorce. The decree may include orders regarding the children, medical coverage for the children, property, and debts. The court needs to take evidence, even if by affidavit, to support the decree of divorce.

The decree is absolute: (1) upon signing by the court and entry by the clerk in the register of actions, or (2) at the expiration of a time period designated by the court, unless an appeal or other proceeding for review is pending, or (3) when the court otherwise orders, prior to the decree becoming absolute, if “sufficient cause” exists. A court can extend the designated time period up to six months after the “signing and entry of the decree”. The file, except for the final order, can be classified as private.

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225 See Utah Code Ann. § 30-3-4(1)(b), (d) (LexisNexis 2019).
226 Utah Code Ann. § 30-3-7(1) (LexisNexis 2019).
227 Utah Code Ann. § 30-3-7(2) (LexisNexis 2019).
228 Utah Code Ann. § 30-3-4(2) (LexisNexis 2019).
Chapter 11
Enforcement

Disobedience of a court order is contempt.229

When the contempt is not committed in the presence of the court, evidence of the contempt is given to the court through an affidavit or statement of the facts.230 An application can be made to the court for an order to show cause to enforce an existing order or to seek “sanctions for violating an existing order”.231 A request for an order is to be done by motion and generally must be in writing, stating the grounds and the relief that is being requested.232 Motions are generally to be accompanied by a supporting memorandum.233 After briefing has been completed the parties can “file a ‘Request to Submit for Decision.’”234

The court may hold a hearing on a motion.235 And an order can be entered.236

If a person is found in contempt, the court may order payment of a fine not exceeding $1,000, and/or sentence the person to 30 days (or less) in jail.237 In addition, the court may order the person to pay the aggrieved party enough money to compensate them for their costs and expenses caused by the contempt.238 If a person is refusing to do something that the law requires them to do, and which are capable of doing, the court may imprison the person until they do it.239

If a parent does not comply with the minimum amount of parent-time or child support ordered, the court can order ten or more hours of compensatory service and order the offender to participate in workshops, classes, or counseling.240

Enforcement of a child support order may be pursued at any time “within four years after the date the youngest child reaches majority” or “eight years from the date of entry of the sum certain judgment by a tribunal.”241

229 Utah Code Ann. § 78B-6-301(5) (LexisNexis 2018).
231 See Utah R. Civ. P. 7(b) and 7(q).
232 Utah R. Civ. P. 7(b).
233 Utah R. Civ. P. 7(c)(1).
234 Utah R. Civ. P. 7(g).
236 See Utah R. Civ. P. 7(j).
238 Utah Code Ann. § 78B-6-311 (LexisNexis Supp. 2022) (it is possible that bail, paid by the judgment debtor, can be given to the judgment creditor).
239 Utah Code Ann. § 78B-6-312 (LexisNexis 2018).
If child support or parent-time has been withheld for 60 days, “[a] court may, in addition to other available sanctions, withhold, suspend, or restrict the use of driver’s licenses, professional and occupational licenses, and recreational licenses . . .”\textsuperscript{242}

Criminal nonsupport of children under 18 years of age is a class A misdemeanor (for a first offense).\textsuperscript{243} Repeat offenses can result in a conviction of a third-degree felony.\textsuperscript{244}

Recovery Services

The office (Office of Recovery Services\textsuperscript{245} or O.R.S.) has the duty of providing child support services if O.R.S. has received an application for child support services, the state has provided public assistance, or the child lives out of the home under state custody or care.\textsuperscript{246} In cases where the children are receiving public assistance, immediate income withholding is available (as of the effective date of the order), even if no delinquency exists.\textsuperscript{247} In cases where the children are not receiving public assistance, immediate income withholding is also available (as of the effective date of the order), even if no delinquency exists, unless preempted by good cause or by a written contract provision.\textsuperscript{248} O.R.S. can use an administrative proceeding to require payment of child support.\textsuperscript{249} 42 U.S.C. § 664(a)(2)(A) says that agencies like O.R.S. can intercept federal and state income tax refunds to satisfy unpaid child support.

Each child support payment is, “on or after the date it is due,” a judgment.\textsuperscript{250}

\textsuperscript{242} Utah Code Ann. § 78B-6-315 (LexisNexis 2018).
\textsuperscript{243} Utah Code Ann. § 76-7-201 (LexisNexis Supp. 2022).
\textsuperscript{244} Utah Code Ann. § 76-7-201(3) (LexisNexis Supp. 2022).
“The court has continuing jurisdiction to make substantive changes or new orders for the custody of the children and their support, maintenance, health, and dental care, and for distribution of the property and obligations for debts as is reasonable and necessary.” Attorney fees may be awarded if a petition to modify or defense against modification was not done in good faith.

Modification of Custody or Parent Time

In order to justify a modification of custody the court must find that a substantial change in circumstances has occurred and that the change is in the best interest of the child. For example, it would be wrong for a court to “focus on a [noncustodial parent’s] re-marriage and the consequent circumstances of a stepmother as a full-time homemaker in finding a change of circumstances.” But that fact that a noncustodial parent has overcome her emotional problems is an example of a substantial change of circumstances.

To modify or terminate an order of joint legal or physical custody, the court must find that there has been a “material and substantial change of circumstances” and that modification would be “an improvement for and in the best interest of the child.”

Where the original order was stipulated rather than litigated, the court can modify custody without applying a “strict changed circumstances” test.

Utah courts can modify custody decrees from other states if they could now make an initial custody determination and if the other state’s court determines that it no longer has “exclusive continuing jurisdiction” or that Utah would be a more convenient forum or if one of the states’ courts determines that the child and parents (or the person acting as parent) no longer live in the other state.

If a parent moves 150 miles or more from the original residence, the court may order the relocating parent to pay some of the costs associated with exercising parent time. Unless otherwise ordered by the court, the noncustodial parent is entitled to spend certain time with the children upon relocation of one of the parties. During odd

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numbered years it is the Thanksgiving holiday and spring school break, if applicable.\(^{261}\) During even numbered years it is the winter and fall breaks.\(^{262}\) In addition, extended parent-time is to be one-half of the summer or off-track time\(^{263}\) and, “one weekend per month, at the option and expense of the noncustodial parent.”\(^{264}\)

**Modification of Child Support**

“If the prior court order contains a stipulated provision for the automatic adjustment for prospective support, the prospective support shall be the amount as stated in the order, without a showing of a material change of circumstances,” so long as the stipulated provision is “clear and unambiguous”, self-executing, provides for support equaling or exceeding the base child support amount found in the guidelines, and “does not allow a decrease in support as a results of the obligor’s voluntary reduction of income.”\(^{265}\)

The trial court retains jurisdiction to modify child support.\(^{266}\)

If the amount was not set or modified within the past three years, the court can adjust the amount.\(^{267}\) If the court finds a permanent difference of 10% or more and if “the order adjusting the payor’s ordered support amount does not deviate from the guidelines”, the court will adjust the amount.\(^{268}\) A showing of substantial change in circumstances is not required.\(^{269}\)

The court may be petitioned, anytime, to adjust the support amount upon a showing of a substantial change in circumstances (e.g., a material change in custody, a material change in the relative wealth or assets of a party, a change of 30% or more in a parent’s income, a material change “in the employment potential and ability of a parent to earn,” a material change in the medical needs of a child, or a material change in the legal responsibility of a parent for the support of other people).\(^{270}\) If the court finds a permanent change of 15% or more, in the amount of support, it will change the amount.\(^{271}\)

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\(^{265}\) Utah Code Ann. § 78B-12-202(1)(b) (LexisNexis 2018).


Child support cannot be changed retroactively, but it can begin with the date that the pleading was served on the person who is to pay the additional child support.\textsuperscript{272}

**Modification of Alimony**

The court can modify alimony “based on a substantial material change in circumstances not foreseeable at the time of the divorce.”\textsuperscript{273} The court is not permitted to modify or award new alimony for “needs of the recipient that did not exist at the time the decree was entered, unless the court finds extenuating circumstances that justify that action.”\textsuperscript{274}

The court can consider a “subsequent spouse’s financial ability to share living expenses” and “may consider the income of a subsequent spouse if . . . the “payor’s improper conduct justifies that consideration.”\textsuperscript{275}

Alimony may be given later even if not awarded in the initial decree.\textsuperscript{276}

**Modification of Property and Debt Division**

“The court has continuing jurisdiction to make subsequent changes or new orders . . . for distribution of the property and obligations for debts as is reasonable and necessary.”\textsuperscript{277}

**Other Considerations**

The juvenile court “may acquire jurisdiction” in child abuse, child neglect, and dependent child cases, and change custody, support, and parent-time, “as necessary to implement the order of the juvenile court for the safety and welfare of the child.”\textsuperscript{278}

\textsuperscript{272} Utah Code Ann. § 78B-12-112(4) (LexisNexis 2018).
\textsuperscript{277} Utah Code Ann. § 30-3-5(5) (LexisNexis Supp. 2022). A substantial change of circumstances must be found before a property division can be modified. See Childs v. Callahan, 993 P.2d 244, 247 (Utah Ct. App. 1999) (vesting of a military retirement was not a sufficient change of circumstances).
\textsuperscript{278} Utah Code Ann. § 78A-6-104(3) (LexisNexis Supp. 2022).
Chapter 13
Mediation

Civil cases are generally required to submit to alternative dispute resolution.279

Mediation, a form of alternative dispute resolution, is defined as “a private forum in which one or more impartial persons facilitate communication between parties to a civil action to promote a mutually acceptable resolution or settlement.”280 The purpose of alternative dispute resolution is to “promote the efficient and effective operation of the courts of this state by authorizing and encouraging the use of alternative methods of dispute resolution to secure the just, speedy, and inexpensive determination of civil actions filed in the courts of this state.281 Confidentiality of ADR procedures is intended to aid in the “successful resolution of civil actions in a just, speedy, and inexpensive manner . . . .”282 The “Judicial Council may by rule establish experimental and permanent ADR programs . . . .”283 Mediation is governed by the Utah Rules of Court-Annexed Alternative Dispute Resolution284 and Rule 4-510 of the Utah Code of Judicial Administration.

Unless all agree, only the parties, representatives, and mediator may attend mediation sessions.285 A settlement agreement between the parties as a result of mediation can be put in writing, filed with the court, and enforced as a judgment of the court.286

A wide range of civil cases are to be referred to the alternative dispute resolution (“ADR”) program and only certain kinds of cases are exempt from the ADR rules.287 ADR is to proceed upon the filing of the responsive pleading unless the parties have participated in another ADR program or have been excused by the court.288

279 See Utah Code Jud. Administration 4-510.05(1)(A).
284 These rules are located at http://www.utcourts.gov/resources/rules/adr/.
286 Utah Code Ann. § 78B-6-207(3)(a) (LexisNexis Supp. 2022). A lawyer who serves “as a mediator in a mediation in which the parties have fully resolved all issues” is allowed to “prepare formal documents that memorialize and implement the agreement reached in mediation;” the lawyer-mediator “shall recommend that each party seek independent legal advice before executing the documents;” the lawyer-mediator “with the informed consent of all parties confirmed in writing, may record or may file the documents in court, informing the court of the mediator’s limited representation of the parties for the sole purpose of obtaining such legal approval as may be necessary.” Utah R. Prof. Conduct 2.4(c).
287 See Utah Code Jud. Admin. 4-510.06.
288 Utah Code Jud. Admin. 4-510.05(1)(A).
There is currently an Expedited Parent-time Program in the third judicial district. If a parent files a motion in the third judicial district alleging that court-ordered parent-time rights are being violated, the clerk of the court, after assigning the case to a judge, shall refer the case . . . for assignment to a mediator . . . . The mediation can be terminated if an agreement is reached or if the parents are unable to reach an agreement. A judge may sign a mediated agreement as an order, “order the parents to receive services to facilitate parent-time”, “proceed with the case”, or “take other appropriate action.” If abuse is alleged, the judge and Division of Child and Family Services are to be informed immediately. Expenses of mediation are to be “divided equally between the parents”, unless one of them “failed to participate in good faith” or “made an unfounded assertion or claim” of abuse (in which case they may be required to pay more).

In addition, there is a mandatory domestic mediation program throughout the entire state. After the filing of an answer to a complaint for divorce, the parties are to participate in at least one mediation session. Unless the court orders otherwise or the parties agree, the cost of mediation is to “be divided equally between the parties.” The parties may be excused from mediation for good cause.

Mediators will go through seven steps or stages of mediation. The first is intake, in which the parties contact the mediator’s office and schedule the first visit. The second is contracting, in which the parties review the goals of mediation, discuss the role of the mediator, agree to work together, agree to costs, and sign a formal mediation agreement. The third is gathering information, in which the mediator gets a description of the facts and feelings of the parties and the parties begin to listen to each other. The fourth step is identifying issues, in which the mediator makes a list of the issues, based upon the statements of the parties. The fifth is agenda setting, in which the mediators work with the parties to organize and prioritize issues. The sixth is resolving each issue, in which the mediator (a) gathers additional information, (b) helps the parties explore needs and interests, (c) helps the parties list options to deal with issues, (d) has

the parties evaluate options, and (e) has the parties negotiate with one another and make decisions. Sometimes the mediator will caucus, or meet with the parties individually, “to help them consider their alternatives and to encourage them to make movement in order to reach agreement.” The final step is reviewing and drafting final agreements.

Appendix Editor’s Note

Years ago, when this manual was originally developed by Steven Averett (BYU Law Librarian), there was no other single source for the necessary court documents. Since that time, the Utah Courts have developed their own “how to” website, with more information and resources than this appendix could ever provide. Readers are strongly encouraged to use those resources. Fillable online forms are also provided via the Utah Online Court Assistance Program (OCAP) website, and readers are advised to use that system whenever possible. Documents generated by the OCAP site automatically meet court requirements.

Due to these welcome developments, this Appendix will no longer reproduce the Utah forms that are available through https://www.utcourts.gov/howto/divorce/. The outline of procedures / table of contents for this Appendix will provide links to the current location of each form. Sub-headings in the table link to the guidance pages for each part of the process.

Downloaded PDF forms as of September 2022 have been compiled as a ZIP archive solely for the benefit of individuals who do not have regular internet access. The Courts revise these forms regularly, and there is no guarantee going forward that any of the downloaded files are still current. While the PDF documents are included for the purposes of this publication, many of these forms are also available in DOC format (used by Microsoft Word, Google Docs, and other open-source word processing programs).

Some documents – such as the Complaint (Part 1), Stipulation (Part 6) and QDRO (Part 8) – must be individually customized to represent the circumstances of each particular case and no official form is provided. An example of a typical document for each type is provided for reference, with a page number listed in the outline / table of contents. These forms should never be used “as is”. Careful drafting of these documents (preferably by an attorney or a licensed paralegal) is necessary in every case to ensure that any documents submitted to a court are accurate and relevant.
Introduction: Roadmap & Service

R-1: Divorce Roadmap ................................................................. Page A-1

Serving Papers
“Service of Process” is the method used by courts to verify that opposing parties have been notified of new documents, petitions, and motions for the case. Proof of Service is required every time a form is submitted for consideration. Multiple forms submitted at the same time just need one certificate of proof for the package. For a fee, either party may arrange for court representatives to serve papers on their behalf.

S-1: Certificate of Service
S-2: Proof of Completed Service
S-3: Acceptance of Service
S-4: Service Assistance Form

Alternative OCAP Acceptance of Service, Appearance and Waiver (NOT USUALLY RECOMMENDED) ................................................................. Page A-2

Part 1: Filing for Divorce

1-1: Civil Action Cover Sheet
1-2: Department of Health Certificate
1-3: Complaint ................................................................................. Page A-4
1-4: Parenting Plan (online instructions)
1-5: Motion to Waive Fees (online instructions)
1-6: Order on Motion to Waive Fees
1-7: Summons (online instructions)
   1-7a: When the other party is in Utah.
   1-7b: When the other party is out-of-state.

REMINDER: These documents must be completed by the Plaintiff (person filing for divorce) and served on the Defendant (person not filing) before they will be processed by the court.

Instructions and forms for Defendants are found on the self-help divorce pages. See the instruction and sub-heading links for forms related to specific issues.
If you are in danger, call: 911
Call the Domestic Violence Hotline:
They can help you find emergency housing, medical care, and support and advocacy for you and your children.
Call toll-free: 800-897-5465

Part 2: **Protective Order** Documents (optional – use only if needed)

  2-1: Request for a Protective Order
  2-2: Temporary Protective Order (Ex Parte Order)
  2-3: Protective Order
  2-4: Notice of Hearing
  2-5: Service Assistance Form
  2-6: Order to Wireless Provider (Optional)

Part 3: **Temporary Order** Documents

Temporary Orders are used to govern issues such as child custody, parent time and support, alimony, property distribution, attorney fees and other matters during divorce or parentage proceedings. Parties must follow a temporary order until it is changed or until there is a final order (judgment) in the case. Motions (Requests) for a Temporary Order may be filed together with or after the paperwork for the Petition for Divorce. Temporary Orders require justification and are not automatic.

  3-1: Motion for Temporary Order – With Children
    3-1a: For Districts 1-4 (cases before a Commissioner)
    3-1b: For Districts 5-8 (cases before a Judge)
    3-1c: Forms for when children are not involved.
  3-2: Financial Declaration and Parenting Plan
  3-3: Stipulation (when the parties agree)
  3-4: Opposing Memorandum and Reply (when the parties don’t agree)
  3-5: Notice of Hearing
  3-6: Order on Motion for Temporary Order – With Children
    3-6a: For Districts 1-4 (cases before a Commissioner)
    3-6b: For Districts 5-8 (cases before a Judge)
Part 4: Waiting Period Waiver Forms
4-1: Motion to Waive 30-Day Divorce Waiting Period
4-2: Request to Submit for Decision
4-3: Order on Motion to Waive 30-Day Divorce Waiting Period

Part 5: Divorce Education Requirements Waiver Forms
There is also an online divorce education class for children ages 9–12.
5-1: Notice of Education Requirements
5-2: Motion to Waive Education Requirements
5-3: Request to Submit for Decision
5-4: Order on Motion to Waive Education Requirements

Part 6: Documents for Ending a Divorce Case (Stipulation and Trial – procedure when both partners are participating in the process)
6-1: Certification of Readiness for Trial
6-2: Stipulation (lists the issues on which the parties both agree) ........ Page A-12
6-3: Trial Issues – Domestic Cases (issues in dispute)
6-4: Checklist for Informal Trial
6-5: Stipulated Motion for Informal Trial
6-6: Consent to Informal Trial and Waiver of Rules of Evidence
6-7: Decree of Divorce ................................................................. Page A-22
6-8: Petition to Register ORS Support Order
6-9: Order Confirming Registration of ORS Support Order

Part 7: Documents for Ending a Divorce Case (Default Trial – procedure when only one partner is participating in the process. Note that deployed members of the military have some protection from adverse actions taken in their absence.)
7-1: OCAP Respondent’s Declaration of Military Service (Not in Military)
7-2: Military Service Declaration
7-3: Military Service Order
7-4: Motion for Default Judgment
7-5: OCAP Affidavit of Jurisdiction and Grounds for Divorce
7-6: Notice of Disclosure Requirements in Domestic Relations Cases
    (Online explanation of requirements.)
7-7: Financial Declaration (required from both parties)
7-8: Certificate of Service of Financial Declaration (required from both parties)
7-9: Declaration of Other Parent Earnings (used by either party to tell the court what they know about the other party’s financial status)
7-10: (Default) Findings of Fact and Conclusions of Law .................... Page A-20
7-11: (Default) Decree of Divorce ......................................................... Page A-22
7-12: Default Certificate
7-13: Notice of Judgment
7-14: Petition to Register ORS Support Order
7-15: Order Confirming Registration of ORS Support Order

Part 8: QDRO (Qualified Domestic Relations Order, used to inform fiduciaries of allocated interests in pensions and retirement savings accounts)
8-1: Notice of Entry .............................................................................. Page A-28
8-2: QDRO .......................................................................................... Page A-31

Part 9: Notice of Withdrawal
Unless an attorney is on permanent retainer, this is a normal step when the case is over. It informs the court that your attorney no longer represents you. You will need to establish a new representation agreement if additional action is required in this matter.
9-1: Notice of Withdrawal of Counsel
9-2: Notice to Appear Personally or to Appoint Counsel
9-3: Notice of Personal Appearance or Appointment of Counsel
9-4: Substitution of Counsel

Part 10: Enforcement Documents
If one of the parties to the divorce fails to perform as ordered by the court, the other party uses this procedure to go back to court to demand compliance.
10-1: Ex Parte Verified Motion to Enforce Domestic Order and for Sanctions (cases before a Commissioner, Districts 1-4)
10-2: Ex Parte Verified Motion to Enforce Domestic Order and for Sanctions (cases before a Judge, Districts 5-8)
10-3: Request to Submit for Decision
10-4: Order to Attend Hearing
10-5: Order on Motion to Enforce Domestic Order
Part 11: **Modification** Documents

Family circumstances must meet certain requirements for modification to be considered, and there are procedural differences for child support alone; parent-time alone; and custody, support, and parent-time all together. Child support orders can only be modified if:

- there is a difference of 10% or more between the support amount as ordered and the support amount as required under the guidelines; and
- the difference is not temporary; and
- the proposed child support amount is consistent with the guidelines.

If the proposed support order is NOT consistent with the support guidelines a petition is required.

11-1: Support Modification Jurisdiction Chart

11-2: Child Support Modification Forms

11-2a: **MOTION to Modify Child Support** (Commissioner, Districts 1–4)

- 11-2a(1): Order on Motion to Adjust Child Support
- 11-2a(2): Notice of Judgment

11-2b: **MOTION to Modify Child Support** (Judge, Districts 5–8)

- 11-2b(1): Request to Submit for Decision
- 11-2b(2): Order on Motion to Adjust Child Support
- 11-2b(3): Notice of Judgment

11-2c: **PETITION to Modify Child Support**

- 11-2c(1): Findings of Fact and Conclusions of Law on Petition
- 11-2c(2): Order on Petition
- 11-2c(3): Notice of Judgment

11-3: Parent-time Modification Forms

11-3a: **Petition and Stipulation to Modify Parent-time**

11-3b: **Findings of Fact and Conclusions of Law on Petition**

11-3c: **Order on Petition**

11-3d: **Notice of Judgment**

11-4: Custody, Parent-time and Child Support

11-4a: **Petition to Modify Child Custody, Parent-time and Child Support**

11-4b: **Findings of Fact and Conclusions of Law on Petition**

11-4c: **Order on Petition**

11-4d: **Notice of Judgment**

11-4e: **Notice of Modification**
11-5: Non-Public Information Form – Parent Identification & Location
11-6: Non-Public Information Form – Minors
11-7: Summons
   11-7a: In-State
   11-7b: Out of State
11-8: Petition to Join the Office of Recovery Services (ORS)

NOTE: Financial Disclosure Forms (see Part 7) should also be submitted together with a Motion or Petition to Modify. Custody and Support [Calculation] Worksheets are discussed in Part 13.

Part 12: Alternative Dispute Resolution Documents (Mandatory Mediation)
Mediation can be a valuable tool for resolving issues between the parties in a way that is mutually acceptable. If a mediation agreement can be reached, it can save significant time and money for both parties.

12-1: Agreement to Mediate ................................................................. Page A-35
12-2: Memorandum of Understanding .............................................. Page A-37
12-3: Mediation Disposition Notice .................................................. Page A-41

Mandatory mediation may be excused if justified by case circumstances. The initial request to be excused MUST be submitted to the Utah Alternative Dispute Resolution Office. If the ADR Office denies the request, a second request may be submitted to the divorce court.

12-4: ADR Request to be Excused from Mediation
   12-4a: Application to be Excused (submit to the Utah ADR Office)
   12-4b: Low Income Survey (submit to the Utah ADR Office)
   12-4c: Divorce Mediation Income Survey Flowchart

12-5: Court Request to be Excused from Mediation (Commissioner, Districts 14)
   12-5a: Motion to Excuse Mandatory Divorce Mediation
   12-5b: Notice of Hearing
   12-5c: Order on Motion to Excuse Mandatory Divorce Mediation

12-6: Court Request to be Excused from Mediation (Judge, Districts 58)
   12-6a: Motion to Excuse Mandatory Divorce Mediation
   12-6b: Notice of Hearing
   12-6c: Order on Motion to Excuse Mandatory Divorce Mediation
Part 13: Child Support Worksheets and Official Child Support Table

13-1: Online Child Support Calculator
13-2: Joint Physical Custody Worksheet
13-3: Sole Custody and Paternity Worksheet
13-4: Split Custody Worksheet
13-5: Other Children Present in the Parent’s Home Worksheet
13-6: Declaration of Other Parents Earnings
13-7: Petition to Register ORS Support Order
13-8: Utah Code 78B-12-§301: Utah Base Combined Child Support Obligation Table
13-9: Utah Code 78B-12-§302: Utah Low Income Table – Obligor Parent Only
Roadmap for divorce cases

Case Starts. Petitioner files Petition for Divorce

Summons and Petition are served on respondent and proof of service is filed within 120 days (unless parties agree and file a Stipulation)

Parties Disagree*

Respondent files Answer and optional Counterpetition

Parties exchange:
- Financial Declarations
- Initial Disclosures

Parties attend mediation or file:
- Application or Motion to Excuse Mediation

One party files:
- Certification of Readiness for Trial
Both parties file:
- Proposed settlement
- Updated Financial Declarations
Both parties attend pre-trial conference

Either party can file a Motion for temporary order

At any time...

One party files:
- Certification of Readiness for Trial
Both parties file:
- Proposed settlement
- Updated Financial Declarations
Both parties attend pre-trial conference

Parties Agree*

They file a Stipulation

Respondent Doesn’t File Answer within:
- 21 days (in UT), 30 days (not in UT)*

Petitioner files paperwork for a Default Divorce

File:
- Final documents
  If there are children, also file:
  - Proof of income for both parties
  - Certificates of Completion of Divorce Education Courses (or get waiver)

Judge reviews final documents

Case is finished.
Judge signs Divorce Decree
If needed: parties can file QDRO

* If there are children: both parties must attend education classes or file:
- Motion to Waive Education Requirements

Use OCAP for forms
Get help at selfhelp@utcourts.gov or 888-683-0009

Revised November 2019
IN THE ___________ JUDICIAL DISTRICT COURT
OF _______________COUNTY, STATE OF UTAH

________________________________,

Petitioner,

vs.

________________________________,

Respondent.

Commissioner: ___________

Judge: ____________________

_____________________________________________________

* * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * * *

The Respondent, _____________________________________________, being first duly sworn and under oath, affirms and states as follows:

1. I have received and read a copy of the Petitioner's Verified Divorce Petition.

2. I understand that I have the right to have a summons and the Verified Divorce Petition served upon me if I were not to sign this Acceptance of Service, Appearance, Consent, and Waiver.

3. I understand that after service I would have the right to answer the Verified Divorce Petition within the time set out in the Summons (21 days if served in the state of Utah; 30 days if served outside the state of Utah) if I were not to sign this Acceptance of Service, Appearance, Consent and Waiver.

4. I understand that I have the right to retain an attorney to consult, with me about this divorce, to review and advise me on all of the documents relating to this divorce and to otherwise
assist and represent me in this divorce.

5. I understand that there is a statutory 30-day waiting period between the date of filing of the Verified Divorce Petition and the date for the granting of a Decree of Divorce in Utah.

6. I understand the allegations in Petitioner's Verified Divorce Petition.

7. Being familiar with the requirements of the summons and the allegations in the Verified Divorce Petition and of my rights to seek legal advice of my own choosing, I voluntarily do the following:

   a. I enter my appearance in this divorce action;

   b. I consent to the personal jurisdiction of this court;

   c. I waive the statutory time in which to answer or otherwise respond to the Verified Petition;

   d. I consent that Judgment by Default may be entered against me at any time and without further notice to me in accordance with the terms of the Verified Divorce Petition;

   e. I understand that Petitioner may ask the court to waive the statutory waiting period and I do not object if the waiting period is waived.

8. It is my intention in signing this Acceptance of Service, Appearance, Consent, and Waiver that a divorce be granted to Petitioner in accordance with the terms of the Verified Divorce Petition.

_________________________________________  ______________________________
Signature ►                                      

Date                                       Printed Name

On this date, I certify that ___________________________________________ (name) who is known to me or who presented satisfactory identification, in the form of ___________________________________________ (form of identification), has, while in my presence and while under oath or affirmation, voluntarily signed this document and declared that it is true.

_________________________________________  ______________________________
Signature ►                                      

Date                                       Printed name (Court Clerk or Notary Public)

Notary Seal
Sample Complaint (NOT from utcourts.gov)

Name

Address

City, State, Zip

Phone

Email

In the _______________ District Court of Utah

__________ Judicial District ________________ County

Court Address ______________________________________________________

_____________________________________
Plaintiff/Petitioner

v.

_____________________________________
Defendant/Respondent

VERIFIED COMPLAINT FOR DIVORCE

Case Number

Commissioner (or Judge)

Petitioner, ________________________________, complains and alleges as follows.

1. Petitioner has been an actual and bona fide resident of __________ County, State of Utah, for at least three months immediately prior to the filing of this action.
2. The parties are wife and husband, having been married on ________________, in ________________, State of Utah.

3. The parties maintained their marital domicile and/or the acts giving rise to this action occurred in the County of ________________, State of Utah.

4. Petitioner should be granted a divorce from Respondent on the ground of irreconcilable differences because the parties have been unable to resolve their marital problems, making continuation of their marriage impossible.

5. The parties have ________ minor child(ren) namely:
   ____________________________, born ____________________________,
   ____________________________, born ____________________________.

6. The parties’ minor child(ren) has/have resided in the State of Utah for at least six (6) months immediately prior to the filing of this action. (NOTE: Insert, here, any other addresses where the child(ren) lived during the past five years and the names and present addresses of people they lived with during that time. In addition, declare, under oath, whether the petitioner has information of any other pending custody proceeding concerning the child(ren); and whether the petitioner knows of any person, not a party to the action, who has or claims custody or parent-time rights to the child.)

7. The parties’ minor child(ren) currently live(s) with Petitioner and Petitioner has been the child(ren)’s primary caretaker and is a fit and proper parent. Therefore, it is in the best interest of the parties’ minor child(ren) that Petitioner be awarded permanent sole care, custody and control of the minor child(ren).

8. Respondent should be awarded rights of parent-time with the parties' minor child(ren) as follows: ________________________________.
9. Pick up and return of the parties’ minor child(ren) should occur at Petitioner’s residence.

10. Respondent should be responsible for all costs associated with visiting the parties’ minor child(ren).

11. If Respondent contests the child custody and parent-time sought by Petitioner, then a qualified agency or person should conduct a child custodial evaluation. The agency or person conducting the evaluation should submit a report of their methods, findings, conclusions, and recommendations to the Court and the parties’ attorneys. The cost of the evaluation, including fees for the evaluator to testify in Court, should be paid by Respondent.

12. Respondent should be permanently restrained from removing the parties’ minor child(ren) from Petitioner’s state of residence without the Petitioner’s notarized, written consent, or by court order. If Respondent does remove the child(ren), an immediate pick-up order should be issued.

13. Each party should be permanently restrained from saying and/or doing anything derogatory against the other in the presence of the parties’ minor child(ren).

14. Petitioner should be entitled to claim the parties’ minor child(ren) as a dependent (dependents) for tax purposes.

15. Each party should attend and complete the mandatory courses for people going through a divorce, as required by Utah Code sections 30-3-11.3 and/or 30-3-11.4. Information and course schedules may be obtained through the Clerk of the District Court, ________________, County. This paragraph should serve as notice to Respondent that he/she is required to attend this course.

16. Public assistance has/has not been received from the State of Utah for the parties’ minor child(ren). (If yes, the State of Utah, Office of the Attorney General,
must be given written notification of this action, and evidence of that notification must be filed with the court.)

17. Petitioner has a gross monthly income of $__________, is/is not under court order to pay child support; does/does not pay alimony to any ex-spouse; contributes $__________ toward monthly premiums for health, hospital, and dental care insurance on the parties’ minor child(ren); and pays $__________ as work-related child care costs.

18. To the best of Petitioner’s knowledge and belief, Respondent has a gross monthly income of approximately $__________; is/is not under order to pay child support; does/does not pay alimony to any ex-spouse; contributes $__________ toward monthly premiums for health, hospital, and dental care insurance on the parties’ minor child(ren) and pays $_________ as work-related child care costs.

19. Respondent’s base child support obligation should be set at $_________ per month, beginning _______________________________. (Two copies of the “Child Support Obligation Worksheet” are attached and incorporated by reference herein.)

   a. Respondent should pay child support, other than any court-ordered child care costs, in two equal installments on or before the 5th and 20th of each month to the Utah State Office of Recovery Services (P.O. Box 45011, Salt Lake City, Utah 84145-0011) (“the Office”), unless the Office notifies Respondent that payments should be sent elsewhere.

   b. Respondent’s income should be subject to immediate and automatic income withholding as of the effective date of the order, regardless of whether a delinquency exists.

   c. Each party should keep the Office informed of changes in his or her address, employment and income.
20. Each party should pay half of all reasonable and necessary health, optical, hospital, dental, and other medical expenses of the parties’ minor child(ren) including, but not limited to: out-of-pocket costs actually paid by either parent for the minor child(ren)’s portion of health, optical, hospital, dental, and other medical insurance coverage and all reasonable and necessary uninsured health, optical, hospital, dental, and other medical expenses, including deductibles and co-payments, incurred for the dependent child(ren) and actually paid by either parent.

   a. _______________________________ should maintain health, optical, hospital, dental, and other medical insurance on the parties’ minor child(ren) if coverage is or becomes available at a reasonable cost.

   b. _______________________________ should provide proper verification of health, optical, hospital, dental, and other medical insurance coverage to _______________________________ and the Office if requested, upon initial enrollment of the dependent child(ren), and thereafter on or before January 2nd of each calendar year. Furthermore, _______________________________ should notify _______________________________ and the Office, if requested, of any change of insurance carrier, premium, or benefits within thirty (30) days of the date he/she first knew or should have known of the change. If such verification is not provided to the Office, no credit should be given by the Office.

   c. Either parent who incurs health, optical, hospital, dental, and other medical expenses for the parties’ minor child(ren) should provide written verification of the costs and payment of such health, optical, hospital, dental, or other medical expenses to the other parent within thirty (30) days of payment.

21. Each party should be responsible and liable for one-half of the reasonable child care costs actually incurred each month as a result of Petitioner’s schooling
and/or work. Petitioner should provide documentation for reimbursement within thirty (30) days. Respondent’s portion of these child care costs should be paid directly to Petitioner by the 5th of each month.

   a. Petitioner should provide written verification of the cost and identity of the child care provider to Respondent.
   b. Petitioner should notify Respondent of any change in the child care provider or the monthly child care expenses within thirty (30) calendar days from the date of the change.

22. A cash payment of alimony, in the following amount ($____________________), should be awarded to Petitioner in this matter.

23. Petitioner should be ordered to pay and assume only the following debt(s):
   _______________________________. Petitioner should hold Respondent harmless from any liability on these debts.

24. Respondent should be ordered to pay and assume all other debts incurred during the parties’ marriage, but prior to their separation, including but not limited to the following: _________. Respondent should hold Petitioner harmless from any liability on these debts.

25. Each party should be ordered to pay and assume their own debts incurred after the parties’ separation on or about _______________________________. Each party should hold the other harmless from any liability on these debts.

26. The parties acquired personal property during the marriage and it should be divided and awarded as follows:
   a. To Petitioner: ______________________________
      ______________________________.
   b. To Respondent: ______________________________
      ______________________________.
c. All remaining personal property should be awarded as currently held by each party.

27. The parties do not own an interest in real property.

(Or: During the marriage, the parties acquired real property located at ____________. This real property is presently owned by ____________ and ____________. The legal description of the property is ____________. The parties’ real property, and its debt and equity, should be awarded to Petitioner. Petitioner should hold Respondent harmless from any mortgages, liens, taxes, encumbrances, and any other liabilities on this real property.)

28. The parties are expecting an income tax refund for the tax year ____________. Any tax refund should be awarded to Petitioner.

29. Neither party has pensions, profit sharing, and/or retirement benefits which accrued during the parties’ marriage. (Or, ____________ has pension, profit sharing, or retirement benefits which should be divided as follows ______________.)

30. Respondent should be permanently restrained from bothering, harassing, annoying, threatening, and/or harming Petitioner at any time or in any place.

31. Petitioner’s (or Respondent’s) name should be changed to ________________.

32. Respondent should be responsible and liable for all service fees and court costs incurred as a result of this action.

33. Each party should be responsible for his or her own attorney’s fees.

34. Each party should be ordered to execute and deliver to the other party any documents necessary to implement the provisions of the Decree of Divorce entered by the Court.

Wherefore, Petitioner asks for the following things.
1. A Decree of Divorce should be awarded to Petitioner and become absolute upon entry by the Court.

2. Petitioner should be awarded relief and judgment as requested in the foregoing Verified Complaint for Divorce.

3. Petitioner should be awarded other and further relief as the Court deems just and proper.

_______________________________
Typed or Printed Name
Attorney for Petitioner

_______________________________, being first duly sworn, deposes and states: he/she is the Petitioner in the above-entitled action; he/she has read the foregoing Verified Complaint for Divorce and understands its contents; and the facts set forth in this pleading are true and correct to his/her own personal knowledge or belief, where indicated.

_______________________________
Typed or Printed Name

Subscribed and sworn to before me this _____ day of ________________________.

_____________________________________________________
NOTARY PUBLIC

Petitioner’s Address: __________________________________________
________________________________________________________________
________________________________________________________________
________________________________________________________________.
Sample Stipulation (NOT from utcourts.gov)

Name

Address

City, State, Zip

Phone

Email

In the _______________ District Court of Utah

__________ Judicial District ________________ County

Court Address ______________________________________________

_______________________________

STIPULATION

Plaintiff/Petitioner

V. Defendant/Respondent

Case Number

Commissioner (or Judge)

The parties agree as follows.

2. Respondent hereby withdraws his/her answer to the Verified Complaint for Divorce and allows judgment to be entered by default, in accordance with this stipulation.

3. Petitioner has been an actual and bono fide resident of __________ County, State of Utah, for at least three months immediately prior to the filing of this action.
4. The parties are wife and husband, having been married on
__________________________________.
in__________________________________, State of Utah.

5. The parties maintained their marital domicile and/or the acts giving rise to this
action occurred in the County of _______________________________, State of
Utah.

Petitioner should be granted a divorce from Respondent on the ground of
irreconcilable differences because the parties have been unable to resolve their
marital problems, making continuation of their marriage impossible.

6. The parties have _________ minor child(ren) namely:
__________________________________, born ______________________________,
__________________________________, born ______________________________.

7. The parties’ minor child(ren) has/have resided in the State of Utah for at least six
(6) months immediately prior to the filing of this action.

8. The parties’ minor child(ren) currently live(s) with Petitioner and Petitioner has
been the child(ren)’s primary caretaker and is a fit and proper parent. Therefore,
it is in the best interest of the parties’ minor child(ren) that Petitioner be awarded
permanent sole care, custody and control of the minor child(ren).

9. Respondent should be awarded rights of parent-time with the parties’ minor
child(ren) as follows: ________________________________.

10. Pick up and return of the parties’ minor child(ren) should occur at Petitioner’s
residence.

11. Respondent should be responsible for all costs associated with visiting the
parties’ minor child(ren).

12. Respondent should be permanently restrained from removing the parties’ minor
child(ren) from Petitioner’s state of residence without the Petitioner’s notarized,
written consent, or by court order. If Respondent does remove the child(ren), an immediate pick-up order should be issued.

13. Each party should be permanently restrained from saying and/or doing anything derogatory against the other in the presence of the parties’ minor child(ren).

14. Petitioner should be entitled to claim the parties’ minor child(ren) as a dependent (dependents) for tax purposes.

15. Public assistance has/has not been received from the State of Utah for the parties’ minor child(ren).

16. Petitioner has a gross monthly income of $_______, is/is not under court order to pay child support; does/does not pay alimony to any ex-spouse; contributes $_______ toward monthly premiums for health, hospital, and dental care insurance on the parties’ minor child(ren); and pays $_______ as work-related child care costs.

17. Respondent has a gross monthly income of $_______; is/is not under order to pay child support; does/does not pay alimony to any ex-spouse; contributes $_______ toward monthly premiums for health, hospital, and dental care insurance on the parties’ minor child(ren) and pays $_______ as work-related child care costs.

18. Respondent’s base child support obligation should be set at $_______ per month, beginning ______________________________, pursuant to the “Uniform Civil Liability for Support Act.” (A “Child Support Obligation Worksheet” is attached and incorporated by reference herein.)

   a. Respondent should pay child support, other than any court-ordered child care costs, in two equal installments on or before the 5th and 20th of each month to the Utah State Office of Recovery Services (P.O. Box 45011, Salt Lake City, Utah 84145-0011), unless the Office of Recovery Services notifies Respondent that payments should be sent elsewhere.
b. Respondent’s income should be subject to immediate and automatic income withholding as of the effective date of the order, regardless of whether a delinquency exists.

c. Each party should keep the Office of Recovery Services informed of changes in his or her address, employment, and income.

19. Each party should pay half of all reasonable and necessary health, optical, hospital, dental, and other medical expenses of the parties’ minor child(ren) including, but not limited to: out-of-pocket costs actually paid by either parent for the minor child(ren)’s portion of health, optical, hospital, dental, and other medical insurance coverage and all reasonable and necessary uninsured health, optical, hospital, dental, and other medical expenses, including deductibles and co-payments, incurred for the dependent child(ren) and actually paid by either parent.

   a. _______________________________ should maintain health, optical, hospital, dental, and other medical insurance on the parties’ minor child(ren) if coverage is or becomes available at a reasonable cost.

   b. _______________________________ should provide proper verification of health, optical, hospital, dental, and other medical insurance coverage to _______________________________ and the Office of Recovery Services if requested, upon initial enrollment of the dependent child(ren), and thereafter on or before January 2nd of each calendar year. Furthermore, _______________________________ should notify _______________________________ and the Office of Recovery Services, if requested, of any change of insurance carrier, premium, or benefits within thirty (30) days of the date he/she first knew or should have known of the change. If such verification is not provided to the Office of Recovery Services, no credit should be given by the Office of Recovery Services.
c. Either parent who incurs health, optical, hospital, dental, and other medical expenses for the parties' minor child(ren) should provide written verification of the costs and payment of such health, optical, hospital, dental, or other medical expenses to the other parent within thirty (30) days of payment.

20. Each party should be responsible and liable for one-half of the reasonable child care costs actually incurred each month as a result of Petitioner's schooling and/or work. Petitioner should provide documentation for reimbursement within thirty (30) days. Respondent’s portion of these child care costs should be paid directly to Petitioner by the 5th of each month.
   
   a. Petitioner should provide written verification of the cost and identity of the child care provider to Respondent.
   
   b. Petitioner should notify Respondent of any change in the child care provider or the monthly child care expenses within thirty (30) calendar days from the date of the change.

21. A cash payment of alimony, in the following amount ($____________________), should be awarded to Petitioner in this matter.

22. Petitioner should be ordered to pay and assume only the following debt(s):
   _________________________________. Petitioner should hold Respondent harmless from any liability on these debts.

23. Respondent should be ordered to pay and assume all other debts incurred during the parties' marriage, but prior to their separation, including but not limited to the following: _________________________________.
   Respondent should hold Petitioner harmless from any liability on these debts.

24. Each party should be ordered to pay and assume their own debts incurred after the parties’ separation on or about _________________________________.
   Each party should hold the other harmless from any liability on these debts.
25. The parties acquired personal property during the marriage and it should be divided and awarded as follows:

   a. To Petitioner: ________________________________
      ________________________________.
   b. To Respondent: ________________________________
      ________________________________.
   c. All remaining personal property should be awarded as currently held by each party.

26. The parties do not own an interest in real property. (Or, During the marriage, the parties acquired real property located at ____________. This real property is presently owned by ____________ and ____________. The legal description of the property is ____________. The parties’ real property, and its debt and equity, should be awarded to Petitioner. Petitioner should hold Respondent harmless from any mortgages, liens, taxes, encumbrances, and any other liabilities on this real property.)

27. The parties are expecting an income tax refund for the tax year ____________. Any tax refund should be awarded to Petitioner.

28. Neither party has pensions, profit sharing, and/or retirement benefits which accrued during the parties’ marriage. (Or, _______________ has pension, profit sharing, or retirement benefits which should be divided as follows _________________________________.)

29. Respondent should be permanently restrained from bothering, harassing, annoying, threatening, and/or harming Petitioner at any time or in any place.

30. Petitioner’s (or Respondent’s) name should be changed to _________________.

31. Respondent should be responsible and liable for all service fees and court costs incurred as a result of this action.

32. Each party should be responsible for his or her own attorney’s fees.
33. Each party should be ordered to execute and deliver to the other party any documents necessary to implement the provisions of the Decree of Divorce entered by the Court.

_________________________________________  Petitioner ►  ________________________________
Date
Typed or Printed Name  ________________________________
Attorney for Petitioner  ________________________________

_________________________________________, being first duly sworn, deposes and states: he/she is the Petitioner in the above-entitled action; he/she has read the foregoing stipulation and agrees to its contents.

_________________________________________  Sign here ►  ________________________________
Date
Typed or Printed Name  ________________________________

Subscribed and sworn to before me this _____ day of ________________________.

__________________________________________
NOTARY PUBLIC

Petitioner’s Address: ________________________________

__________________________________________

__________________________________________.
Respondent ►  

Typed or Printed Name  

Attorney for Respondent  

_______________________________, being first duly sworn, deposes and states: he/she is the Respondent in the above-entitled action; he/she has read the foregoing stipulation and agrees to its contents.

_______________________________  Sign here ►  

Date  

Typed or Printed Name  

Subscribed and sworn to before me this _____ day of ________________________.

_______________________________  
NOTARY PUBLIC

Respondent’s Address:  

_______________________________  

_______________________________  

_______________________________.
Sample (Default) Findings of Fact and Conclusions of Law (NOT from utcourts.gov)

Name

Address

City, State, Zip

Phone

Email

In the _______________ District Court of Utah

__________ Judicial District ________________ County

Court Address ______________________________________________________

Plaintiff/Petitioner

V.

Defendant/Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Case Number

Commissioner (or Judge)

Respondent was regularly served and there is a return of service on file with the Court. The Court found that ____________________________ had been properly served with ____________________________’s Petition for a Decree of

This document is usually filed together with the Decree of Divorce.
Divorce but had failed to answer. The Court found that the time to answer had passed. The Court entered _________________________'s default.

The Court, having received sworn affidavits of the Petitioner, having reviewed the file in this matter and being otherwise fully advised, enters its:

FINDINGS OF FACT

______________________________________________________________________

______________________________________________________________________

______________________________________________________________________.

CONCLUSIONS OF LAW

1. This Court has jurisdiction to issue the decree of divorce.

2. The Court concludes that all other issues of dispute have been resolved by the Court pursuant to the above Findings of Fact.

_____________________________      ________________________________
Sign here ►                                   
Date                                                                

Commissioner or Judge

______________________________

(Judge’s signature may appear at top of first page)
The Petitioner (or their Attorney) will normally provide the Court with the proposed Decree of Divorce together with a document stating proposed Findings of Fact and Conclusions of Law. If you are preparing your own document, it may include findings and conclusions only on the matters you alleged in your Complaint/Petition. If the court website has a form, use the form and follow the instructions provided in that section of the website.

You are encouraged to use OCAP or the services of a licensed legal professional (Lawyer or Paralegal).

<table>
<thead>
<tr>
<th>Name</th>
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<tbody>
<tr>
<td>Address</td>
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<td>City, State, Zip</td>
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<tr>
<td>Phone</td>
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</tbody>
</table>

In the ___________ District Court of Utah
   ________ Judicial District ______________ County

Court Address ______________________________________________________

<table>
<thead>
<tr>
<th>DECREE OF DIVORCE</th>
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<tbody>
<tr>
<td>Plaintiff/Petitioner</td>
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<tr>
<td>Defendant/Respondent</td>
</tr>
<tr>
<td>Case Number</td>
</tr>
<tr>
<td>Commissioner (or Judge)</td>
</tr>
</tbody>
</table>

The Respondent received a copy of the Verified Complaint for Divorce and signed an Acceptance of Service, Appearance, Consent, and Waiver and has failed to appear in person or otherwise file responsive pleadings and the Court therefore enters the Respondent’s Default.
The Court having found and entered its Findings of Fact and Conclusions of Law and being otherwise fully advised, it is hereby,

ORDERED, ADJUDGED, AND DECREED:

1. That the Petitioner is hereby awarded a Decree of Divorce from Respondent, such to become final upon signature and entry by the Court.

1. The parties have __________ minor child(ren) namely:
   _______________________________, born _______________________________.
   _______________________________, born _______________________________.

2. Petitioner is a fit and proper person and is awarded permanent sole care, custody and control of the minor child(ren).

3. Respondent is awarded rights of parent-time with the parties’ minor child(ren) as follows: ________________________________________________________.

4. Pick up and return of the parties’ minor child(ren) is to occur at Petitioner’s residence.

5. Respondent is responsible for all costs associated with visiting the parties’ minor child(ren).

6. Respondent is permanently restrained from removing the parties’ minor child(ren) from Petitioner’s state of residence without the Petitioner’s notarized, written consent, or by court order. If Respondent does remove the child(ren), an immediate pick-up order shall be issued.

7. Petitioner is entitled to claim the parties’ minor child(ren) as a dependent (dependents) for tax purposes.

8. Respondent is ordered to pay child support in the amount of $__________ per month, beginning ________________________________.
a. Respondent is to pay child support, other than any court-ordered child care costs, in two equal installments on or before the 5th and 20th of each month to the Utah State Office of Recovery Services (P.O. Box 45011, Salt Lake City, Utah 84145-0011) (“the Office”), unless the Office notifies Respondent that payments should be sent elsewhere.

b. Respondent's income shall be subject to immediate and automatic income withholding as of the effective date of the order, regardless of whether a delinquency exists.

c. Each party should keep the Office informed of changes in his or her address, employment and income.

9. Each party share equally all reasonable and necessary health, optical, hospital, dental, and other medical expenses of the parties' minor child(ren) including, but not limited to: out-of-pocket costs actually paid by either parent for the minor child(ren)’s portion of health, optical, hospital, mental, and other medical insurance coverage and all reasonable and necessary uninsured health, optical, hospital, dental, and other medical expenses, including deductibles and co-payments, incurred for the dependent child(ren) and actually paid by either parent.

a. _______________________________ is to maintain health, optical, hospital, dental, and other medical insurance on the parties’ minor child(ren) if coverage is or becomes available at a reasonable cost.

b. _______________________________ is to provide proper verification of health, optical, hospital, dental, and other medical insurance coverage to _______________________________ and the Office, if requested, upon initial enrollment of the dependent child(ren), and thereafter on or before January 2nd of each calendar year. Furthermore, _______________________________ shall notify _______________________________ and the Office, if requested, of
any change of insurance carrier, premium, or benefits within thirty (30) days of the date he/she first knew or should have known of the change. If such verification is not provided to the Office, no credit shall be given by the Office.

c. Either parent who incurs health, optical, hospital, dental, and other medical expenses for the parties’ minor child(ren) shall provide written verification of the costs and payment of such health, optical, hospital, dental, or other medical expenses to the other parent within thirty (30) days of payment.

10. Each party should be responsible and liable for one-half of the reasonable child care costs actually incurred each month as a result of Petitioner’s schooling and/or work. Petitioner shall provide documentation for reimbursement within thirty (30) days. Respondent’s portion of these child care costs should be paid directly to Petitioner by the 5th of each month.

   a. Petitioner shall provide written verification of the cost and identity of the child care provider to Respondent.

   b. Petitioner shall notify Respondent of any change in the child care provider or the monthly child care expenses within thirty (30) calendar days from the date of the change.

11. A cash payment of alimony, in the following amount $________________________, is awarded to Petitioner in this matter.

12. Petitioner is ordered to pay and assume only the following debt(s): __________ _________________________________________________________________. Petitioner shall hold Respondent harmless from any liability on these debts.

13. Respondent is ordered to pay and assume all other debts incurred during the parties’ marriage, but prior to their separation, including but not limited to the following:
Respondent shall hold Petitioner harmless from any liability on these debts.

14. Each party is ordered to pay and assume their own debts incurred after the parties’ separation on or about _______________________________. Each party shall hold the other harmless from any liability on these debts.

15. The parties personal property, acquired during the marriage, divided and awarded as follows:

   a. To Petitioner: ________________________________________________
      ____________________________________________________________.

   b. To Respondent: _____________________________________________
      ____________________________________________________________.

   c. All remaining personal property is awarded as currently held by each party.

16. The parties do not own an interest in real property. (Or, During the marriage, the parties acquired real property located at _______________________________. This real property is presently owned by _______________________________ and _______________________________. The legal description of the property is _______________________________________________. The parties’ real property, and its debt and equity, is awarded to Petitioner. Petitioner shall hold Respondent harmless from any mortgages, liens, taxes, encumbrances, and any other liabilities on this real property.)

17. Any tax refund that is received for the tax year of _____________ is awarded to Petitioner.

18. Neither party has pensions, profit sharing, and/or retirement benefits which accrued during the parties’ marriage. (Or, _______________________________
has pension, profit sharing, or retirement benefits which are divided as follows
_____________________________________________________________________.

19. Respondent is permanently restrained from bothering, harassing, annoying, threatening, and/or harming Petitioner at any time or in any place.

20. Petitioner's (or Respondent’s) name is hereby changed to ________________________________.

21. Respondent is responsible and liable for all service fees and court costs incurred as a result of this action.

22. Each party is responsible for his or her own attorney’s fees.

23. Each party is ordered to execute and deliver to the other party any documents necessary to implement the provisions of the Decree of Divorce entered by the Court.

______________________________  ________________________________
Date  Commissioner or Judge

(Judge's signature may appear at top of first page)
Sample Notice of Entry (NOT from utcourts.gov)

Name

Address

City, State, Zip

Phone

Email

In the _______________ District Court of Utah

__________ Judicial District ________________ County

Court Address ______________________________________________________

_____________________________________

Plaintiff/Petitioner

v.

Defendant/Respondent

NOTICE OF ENTRY OF DECREE
OF DIVORCE

_____________________________________

Case Number

Commissioner (or Judge)

TO RESPONDENT AND ALL INTERESTED PARTIES:

Please take notice that on the ______ day of _______________________________,
a DECREE OF DIVORCE AND JUDGMENT was entered in this case, a copy of which
is attached.
Certificate of Mailing

On this ________day of _____________________________, a true and correct copy of the NOTICE OF ENTRY OF DECREE OF DIVORCE was hand delivered (or mailed with all needed postage prepaid) to _______________________________________ at Recipient's Address: ___________________________________

________________________________________

________________________________________

________________________________________.
Sample QDRO (NOT from utcourts.gov)

Name

Address

City, State, Zip

Phone

Email

In the _______________ District Court of Utah

__________ Judicial District ________________ County

Court Address ______________________________________________________

Plaintiff/Petitioner

v.

Defendant/Respondent

QUALIFIED DOMESTIC RELATIONS ORDER

Case Number

Commissioner (or Judge)

1. _______________________________ (“the participant”) is a participant in the
   ________________________________ retirement plan (“the plan”).

2. The participant’s social security number is ______________________________.
   His/her last known address is ______________________________.
(“the spouse”) is the former spouse of the participant. Her/his last known address is ________________________________ and his/her social security number is ________________________________.

3. _________________________________ is the administrator of the plan.

4. The participant and the spouse were married on _________________________.

5. The participant and the spouse were divorced on ________________________.

6. Paragraph ___________ of the Decree of Divorce awards the spouse an interest in the plan.

7. The spouse’s interest in the plan shall be calculated as follows: ____________.

8. The spouse’s interest in the plan shall be payable to him/her in a manner that he/she chooses, upon:
   a. termination of the participant’s employment;
   b. the participant’s retirement and receipt of benefits;
   c. the participant’s death.

9. The spouse shall have the right, upon written request, to withdraw her interest in the plan at the time that the participant becomes, or would have become, eligible to withdraw any funds from the plan.

10. The spouse shall have the right to designate the beneficiary of her interest in the plan in the event of her death.

11. The plan administrator shall not be required to provide the spouse any benefit or option not available to the participant under the plan.
12. The plan administrator shall not be required to provide increased benefits, determined by actuarial value, not available to the participant.

13. The plan administrator shall not be required to pay any benefits to the spouse which are required to be paid to another alternate payee under a prior Qualified Domestic Relations Order.

14. For the purposes of sections 72 and 402(a) of the Internal Revenue Code, the spouse shall be treated as the distributee of any distribution or payment made to her by the plan pursuant to this order.

15. Counsel for the spouse shall mail copies of this order to the plan administrator.

16. Pursuant to 29 U.S.C. 1056(d)(3)(D), the plan administrator shall promptly notify the participant, the spouse, and any other alternate payee of:

   a. the receipt of a copy of this order by the plan administrator;

   b. the plan’s procedures for determining the qualified state of the domestic relations order;

   c. determine whether or not this order is a qualified domestic relations order and notify the court, the participant, the spouse, and any other alternate payee;

   d. pending the determination of whether or not this order is a qualified domestic relations order, segregate in a separate account in the plan or in an escrow account the amounts which would have been available to the spouse during such period if this order had been determined to be a qualified domestic relations order pursuant to 29 U.S.C. 1056(d)(3)(H)(i).
17. This order is intended to be a qualified domestic relations order made pursuant to the Retirement Equity Act of 1984 and its provisions shall be administered and interpreted in conformity with that act.

18. The court retains jurisdiction to amend this order as needed to establish or maintain the order's qualification as a qualified domestic relations order under the Retirement Equity Act of 1984.

Sign here ►

Date

Commissioner or Judge

(Judge's signature may appear at top of first page)
Sample Agreement to Mediate (NOT from utcourts.gov)

We, _______________________________ and _______________________________, agree to participate in mediation, with _______________________________ as the mediator. We agree to the following guidelines.

1. We agree to sincerely attempt to resolve the issues by fully and genuinely searching for fair and workable solutions.

2. We agree to be honest and to completely disclose all relevant information and legally discoverable documents with the other party and the mediator.

3. We agree to be courteous throughout the sessions.

4. We understand that the mediator is a neutral third party whose only purpose is to promote communication and help the parties reach an understanding as to how the issues will be resolved.

5. We understand that it is our obligation to seek independent legal, accounting, and other professional advice and assistance (e.g., having an attorney prepare the actual court papers).

6. The mediator will not reveal anything discussed in the mediation, other than (a) the mediation agreement, (b) incidents of abuse, or (c) threats of violence, without the permission of both parties. The parties agree that they will never subpoena the mediator as a witness or subpoena any documents of the mediator in any legal or administrative proceeding concerning this dispute. They further agree to reimburse the mediator for any expenses he incurs in any action to quash such subpoenas.

7. We agree that either party may, upon the consent of both parties, hold private sessions with the mediator at their or the mediator’s request. Except for concealment of assets and matters which the mediator is legally bound to disclose, the parties may specify what will remain confidential from these private sessions.
8. Either party or the mediator may terminate mediation at any time.

9. We agree to be on time.

_______________________________________   __________________________
Signature Date

_______________________________________   __________________________
Signature Date
Sample Memorandum of Understanding (NOT from utcourts.gov)

____________________________________
Name

____________________________________
Address

____________________________________
City, State, Zip

____________________________________
Phone

____________________________________
Email

____________________________________
In the _____________ District Court of Utah

__________ Judicial District _______________ County

Court Address ______________________________________________________

____________________________________
Plaintiff/Petitioner

v.

____________________________________
Defendant/Respondent

Memorandum of Understanding

____________________________________
Case Number

____________________________________
Commissioner (or Judge)

We, _______________________________ and _______________________________
accept this document as an expression of our mutual understanding of our rights and
obligations to one another and with regard to our children upon the termination of our
marriage.
We represent, acknowledge, and agree to the following facts, assumptions, representations, and commitments.

We have have _________ child(ren), namely:

___________________________________, born ____________________________,
___________________________________, born ____________________________,
___________________________________, born ____________________________,
___________________________________, born ____________________________,

___________________________________ is employed by __________________________ at an income rate of __________ per month. _______________________________ is employed by __________________________ at an income rate of __________ per month.

We are presently married and are obtaining a divorce. Irreconcilable differences have arisen between us, which differences have made the continuation of our marriage impossible. We have participated in mediation and have reached an understanding about the terms of our divorce decree. It is our intent that the terms of our Memorandum of Understanding be incorporated into a Decree of Divorce. We agree that _______________________________ will initiate the divorce and provide all documents to _______________________________ before any are filed with the Court.

We agree that we both have loving and valuable relationships with our children and we agree to work together cooperatively with regard to their physical care and financial and emotional support. Consequently, we agree to the following principles and commitments specially pertaining to our children’s custody and parent-time:

_____________________________________________________________________
_____________________________________________________________________

We agree to the following in regard to child support:

_____________________________________________________________________
_____________________________________________________________________.
Each party will share, equally, all uninsured medical, dental, optical, or other health related expenses, and in the cost of the children’s medical, dental, optical, or other health insurance premiums. ________________________________ will carry medical, dental, optical, and other health insurance on the children.

We agree to the following in regard to tax matters relating to the children: __________
________________________________________________________________________________________
________________________________________________________________________________________.

We agree to the following regarding alimony: ______________________________
________________________________________________________________________________________
________________________________________________________________________________________.

We agree that our assets should be divided as follows: __________________________
________________________________________________________________________________________
________________________________________________________________________________________.

We agree that our debts should be divided as follows: __________________________
________________________________________________________________________________________
________________________________________________________________________________________.

We agree to the following regarding our attorney fees: __________________________
________________________________________________________________________________________.

We will each execute any and all documents necessary to carry out the terms of a decree of divorce immediately upon entry of a decree.

We acknowledge that we have been advised to and have had time to seek independent legal and other professional advice regarding this Memorandum of Understanding.
We agree that we have fully informed and advised the other party of our property and estate.

In the event that there are future disagreements, we agree to attempt mediation first.

__________________________________  __________________________
Signature of Spouse                  Date

__________________________________  __________________________
Signature of Spouse                  Date

__________________________________  __________________________
Signature of Mediator                Date
Sample Mediation Disposition Notice (NOT from utcourts.gov)

________________________________________
Name

________________________________________
Address

________________________________________
City, State, Zip

________________________________________
Phone

________________________________________
Email

________________________________________
In the _______________ District Court of Utah

________________ Judicial District ________________ County

Court Address ______________________________________________________

________________________________________
Mediation Disposition Notice

Plaintiff/Petitioner

v.

Defendant/Respondent

Case Number

Commissioner (or Judge)

The above matter was mediated by _________________________________.

A-41
The case was settled / not settled / partially settled (*circle one*).

_________________________________________  __________________________
Signature of Party                        Date

_________________________________________  __________________________
Signature of Counsel                      Date