

Utah Divorce Laws

Title 30 Husband And Wife

30-1-17. Action to determine validity of marriage - Judgment of validity or annulment.

When there is doubt as to the validity of a marriage, either party may, in a court of equity in a county where either party is domiciled, demand its avoidance or affirmance, but when one of the parties was under the age of consent at the time of the marriage, the other party, being of proper age, shall have no such proceeding for that cause against the party under age. The judgment in the action shall either declare the marriage valid or annulled and shall be conclusive upon all persons concerned with the marriage.

30-1-17.1. Annulment - Grounds for.

A marriage may be annulled for any of the following causes existing at the time of the marriage:

- (1) When the marriage is prohibited or void under Title 30, Chapter 1.
- (2) Upon grounds existing at common law.

30-1-17.2. Action to determine validity of marriage - Orders relating to parties, property, and children - Presumption of paternity in marriage.

(1) If the parties have accumulated any property or acquired any obligations subsequent to the marriage, if there is a genuine need arising from an economic change of circumstances due to the marriage, or if there are children born or expected, the court may make temporary and final orders, and subsequently modify the orders, relating to the parties, their property and obligations, the children and their custody and parent-time, and the support and maintenance of the parties and children, as may be equitable.

(2) A man is presumed to be the father of a child if:

- (a) he and the mother of the child are married to each other and the child is born during the marriage;
- (b) he and the mother of the child were married to each other and the child is born within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation;
- (c) before the birth of the child, he and the mother of the child married each other in apparent compliance with law, even if the attempted marriage is, or could be, declared invalid and the child is born during the invalid marriage or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce, or after a decree of separation; or
- (d) after the birth of the child, he and the mother of the child have married each other in apparent compliance with law, whether or not the marriage is, or could be declared, invalid, he voluntarily asserted his paternity of the child, and there is no other presumptive father of the child, and:
 - (i) the assertion is in a record filed with the state registrar;

- (ii) he agreed to be and is named as the child's father on the child's birth certificate; or
 - (iii) he promised in a record to support the child as his own.
- (3) If the child was born at the time of entry of a divorce decree, other children are named as children of the marriage, but that child is specifically not named, the husband is not presumed to be the father of the child not named in the order.
- (4) A presumption of paternity established under this section may only be rebutted in accordance with Section 78-45g-607.
- (5) A final order or decree issued by a tribunal in which paternity is adjudicated, may not be set aside unless the court finds that one of the parties perpetrated a fraud in the establishment of the paternity and another party did not know or could not reasonably have known of the fraud at the time of the entry of the order. The party who committed the fraud may not bring the action.

CHAPTER 3 DIVORCE

30-3-1. Procedure - Residence - Grounds.

- (1) Proceedings in divorce are commenced and conducted as provided by law for proceedings in civil causes, except as provided in this chapter.
- (2) The court may decree a dissolution of the marriage contract between the petitioner and respondent on the grounds specified in Subsection (3) in all cases where the petitioner or respondent has been an actual and bona fide resident of this state and of the county where the action is brought, or if members of the armed forces of the United States who are not legal residents of this state, where the petitioner has been stationed in this state under military orders, for three months next prior to the commencement of the action.
- (3) Grounds for divorce:
- (a) impotency of the respondent at the time of marriage;
 - (b) adultery committed by the respondent subsequent to marriage;
 - (c) willful desertion of the petitioner by the respondent for more than one year;
 - (d) willful neglect of the respondent to provide for the petitioner the common necessities of life;
 - (e) habitual drunkenness of the respondent;
 - (f) conviction of the respondent for a felony;
 - (g) cruel treatment of the petitioner by the respondent to the extent of causing bodily injury or great mental distress to the petitioner;

(h) irreconcilable differences of the marriage;

(i) incurable insanity; or

(j) when the husband and wife have lived separately under a decree of separate maintenance of any state for three consecutive years without cohabitation.

(4) A decree of divorce granted under Subsection (3)(j) does not affect the liability of either party under any provision for separate maintenance previously granted.

(5)(a) A divorce may not be granted on the grounds of insanity unless:

(i) the respondent has been adjudged insane by the appropriate authorities of this or another state prior to the commencement of the action; and

(ii) the court finds by the testimony of competent witnesses that the insanity of the respondent is incurable.

(b) The court shall appoint for the respondent a guardian ad litem who shall protect the interests of the respondent. A copy of the summons and complaint shall be served on the respondent in person or by publication, as provided by the laws of this state in other actions for divorce, or upon his guardian ad litem, and upon the county attorney for the county where the action is prosecuted.

(c) The county attorney shall investigate the merits of the case and if the respondent resides out of this state, take depositions as necessary, attend the proceedings, and make a defense as is just to protect the rights of the respondent and the interests of the state.

(d) In all actions the court and judge have jurisdiction over the payment of alimony, the distribution of property, and the custody and maintenance of minor children, as the courts and judges possess in other actions for divorce.

(e) The petitioner or respondent may, if the respondent resides in this state, upon notice, have the respondent brought into the court at trial, or have an examination of the respondent by two or more competent physicians, to determine the mental condition of the respondent. For this purpose either party may have leave from the court to enter any asylum or institution where the respondent may be confined. The costs of court in this action shall be apportioned by the court.

30-3-2. Right of husband to divorce.

The husband may in all cases obtain a divorce from his wife for the same causes and in the same manner as the wife may obtain a divorce from her husband.

30-3-3. Award of costs, attorney and witness fees - Temporary alimony.

(1) In any action filed under Title 30, Chapter 3, 4, or 6, and in any action to establish an order of custody, parent-time, child support, alimony, or division of property in a domestic case, the court may order a party to pay the costs, attorney fees, and witness fees, including expert witness fees, of the other party to enable the other party to prosecute or defend the action. The order may include provision for costs of the action.

(2) In any action to enforce an order of custody, parent-time, child support, alimony, or division of property in a domestic case, the court may award costs and attorney fees upon determining that the party substantially prevailed upon the claim or defense. The court, in its discretion, may award no fees or limited fees against a party if the court finds the party is impecunious or enters in the record the reason for not awarding fees.

(3) In any action listed in Subsection (1), the court may order a party to provide money, during the pendency of the action, for the separate support and maintenance of the other party and of any children in the custody of the other party.

(4) Orders entered under this section prior to entry of the final order or judgment may be amended during the course of the action or in the final order or judgment.

30-3-4. Pleadings - Findings - Decree - Use of affidavit - Sealing.

(1)(a) The complaint shall be in writing and signed by the petitioner or petitioner's attorney.

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

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

(d) All hearings and trials for divorce shall be held before the court or the court commissioner as provided by Section 78-3-31 and rules of the Judicial Council. The court or the commissioner in all divorce cases shall enter the decree upon the evidence or, in the case of a decree after default of the respondent, upon the petitioner's affidavit.

(2) The file, except the decree of divorce, may be sealed by order of the court upon the motion of either party. The sealed portion of the file is available to the public only upon an order of the court. The concerned parties, the attorneys of record or attorney filing a notice of appearance in the action, the Office of Recovery Services if a party to the proceedings has applied for or is receiving public assistance, or the court have full access to the entire record. This sealing does not apply to subsequent filings to enforce or amend the decree.

30-3-5. Disposition of property - Maintenance and health care of parties and children - Division of debts - Court to have continuing jurisdiction - Custody and parent-time - Determination of alimony - Nonmeritorious petition for modification.

(1) When a decree of divorce is rendered, the court may include in it equitable orders relating to the children, property, debts or obligations, and parties. The court shall include the following in every decree of divorce:

(a) an order assigning responsibility for the payment of reasonable and necessary medical and dental expenses of the dependent children;

(b) if coverage is or becomes available at a reasonable cost, an order requiring the purchase and maintenance of appropriate health, hospital, and dental care insurance for the dependent children;

(c) pursuant to Section 15-4-6.5:

(i) an order specifying which party is responsible for the payment of joint debts, obligations, or liabilities of the parties contracted or incurred during marriage;

(ii) an order requiring the parties to notify respective creditors or obligees, regarding the court's division of debts, obligations, or liabilities and regarding the parties' separate, current addresses; and

(iii) provisions for the enforcement of these orders; and

(d) provisions for income withholding in accordance with Title 62A, Chapter 11, Recovery Services.

(2) The court may include, in an order determining child support, an order assigning financial responsibility for all or a portion of child care expenses incurred on behalf of the dependent children, necessitated by the employment or training of the custodial parent. If the court determines that the circumstances are appropriate and that the dependent children would be adequately cared for, it may include an order allowing the noncustodial parent to provide child care for the dependent children, necessitated by the employment or training of the custodial parent.

(3) The court has continuing jurisdiction to make subsequent 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.

(4) Child support, custody, visitation, and other matters related to children born to the mother and father after entry of the decree of divorce may be added to the decree by modification.

(5)(a) In determining parent-time rights of parents and visitation rights of grandparents and other members of the immediate family, the court shall consider the best interest of the child.

(b) Upon a specific finding by the court of the need for peace officer enforcement, the court may include in an order establishing a parent-time or visitation schedule a provision, among other things, authorizing any peace officer to enforce a court-ordered parent-time or visitation schedule entered under this chapter.

(6) If a petition for modification of child custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable attorneys' fees expended by the prevailing party in that action, if the court determines that the petition was without merit and not asserted or defended against in good faith.

(7) If a petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court may award to the prevailing party costs, including actual attorney fees and court costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time.

(8)(a) The court shall consider at least the following factors in determining alimony:

- (i) the financial condition and needs of the recipient spouse;
 - (ii) the recipient's earning capacity or ability to produce income;
 - (iii) the ability of the payor spouse to provide support;
 - (iv) the length of the marriage;
 - (v) whether the recipient spouse has custody of minor children requiring support;
 - (vi) whether the recipient spouse worked in a business owned or operated by the payor spouse; and
 - (vii) whether the recipient spouse directly contributed to any increase in the payor spouse's skill by paying for education received by the payor spouse or allowing the payor spouse to attend school during the marriage.
- (b) The court may consider the fault of the parties in determining alimony.
- (c) As a general rule, the court should look to the standard of living, existing at the time of separation, in determining alimony in accordance with Subsection (8)(a). However, the court shall 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 marriages of short duration, 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.
- (d) The court may, under appropriate circumstances, attempt to equalize the parties' respective standards of living.
- (e) When a marriage of long duration dissolves on the threshold of a major change in the income of one of the spouses due to the collective efforts of both, that change shall be considered in dividing the marital property and in determining the amount of alimony. If one spouse's earning capacity has been greatly enhanced through the efforts of both spouses during the marriage, the court may make a compensating adjustment in dividing the marital property and awarding alimony.
- (f) In determining alimony when a marriage of short duration dissolves, and no children have been conceived or born during the marriage, the court may consider restoring each party to the condition which existed at the time of the marriage.
- (g) (i) The court has continuing jurisdiction to make substantive changes and new orders regarding alimony based on a substantial material change in circumstances not foreseeable at the time of the divorce.
- (ii) The court may not modify alimony or issue a new order for alimony to address 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.
- (iii) In determining alimony, the income of any subsequent spouse of the payor may not be considered, except as provided in this Subsection (8).
- (A) The court may consider the subsequent spouse's financial ability to share living expenses.

(B) The court may consider the income of a subsequent spouse if the court finds that the payor's improper conduct justifies that consideration.

(h) Alimony may not be ordered for a duration longer than the number of years that the marriage existed unless, at any time prior to termination of alimony, the court finds extenuating circumstances that justify the payment of alimony for a longer period of time.

(9) Unless a decree of divorce specifically provides otherwise, any order of the court that a party pay alimony to a former spouse automatically terminates upon the remarriage or death of that former spouse. However, if the remarriage is annulled and found to be void ab initio, payment of alimony shall resume if the party paying alimony is made a party to the action of annulment and his rights are determined.

(10) Any order of the court that a party pay alimony to a former spouse terminates upon establishment by the party paying alimony that the former spouse is cohabitating with another person.

30-3-5.1. Provision for income withholding in child support order.

Whenever a court enters an order for child support, it shall include in the order a provision for withholding income as a means of collecting child support as provided in Title 62A, Chapter 11, Recovery Services.

30-3-5.2. Allegations of child abuse or child sexual abuse - Investigation.

When, in any divorce proceeding or upon a request for modification of a divorce decree, an allegation of child abuse or child sexual abuse is made, implicating either party, the court, after making an inquiry, may order that an investigation be conducted by the Division of Child and Family Services within the Department of Human Services in accordance with Title 62A, Chapter 4a. A final award of custody or parent-time may not be rendered until a report on that investigation, consistent with Section 62A-4a-412, is received by the court. That investigation shall be conducted by the Division of Child and Family Services within 30 days of the court's notice and request for an investigation. In reviewing this report, the court shall comply with Section 78-7-9.

30-3-7. When decree becomes absolute.

(1) The decree of divorce becomes absolute:

(a) on the date it is signed by the court and entered by the clerk in the register of actions if both the parties who have a child or children have completed attendance at the mandatory course for divorcing parents as provided in Section 30-3-11.3 except if the court waives the requirement, on its own motion or on the motion of one of the parties, upon determination that course attendance and completion are not necessary, appropriate, feasible, or in the best interest of the parties;

(b) at the expiration of a period of time the court may specifically designate, unless an appeal or other proceedings for review are pending; or

(c) when the court, before the decree becomes absolute, for sufficient cause otherwise orders.

(2) The court, upon application or on its own motion for good cause shown, may waive, alter, or extend a designated period of time before the decree becomes absolute, but not to exceed six months from the signing and entry of the decree.

30-3-7.5. Revocation of death benefits by divorce or annulment.

(1) Upon the entry of a decree of annulment or divorce on and after May 3, 1999, any revocable beneficiary designation contained in a then existing written contract owned by one party that provides for the payment of any death benefit to the other party is revoked. A death benefit prevented from passing to a former spouse by this section shall be paid as if the former spouse had predeceased the decedent. The payor of any death benefit shall be discharged from all liability upon payment in accordance with the terms of the contract providing for the death benefit, unless the payor receives written notice of the entry of decree under this section prior to payment.

(2) The term "death benefit" includes any payments under a life insurance contract, annuity, qualified retirement plan or individual retirement, compensation agreement, or other contract designating a beneficiary of any right, property, or money in the form of a death benefit.

(3) This section does not apply:

(a) to the extent a decree of annulment or divorce from the bond of matrimony, or a written agreement of the parties provides for a contrary result as to specific death benefits; or

(b) to any trust or any death benefit payable to or under any trust.

30-3-8. Remarriage - When unlawful.

Neither party to a divorce proceeding which dissolves their marriage by decree may marry any person other than the spouse from whom the divorce was granted until it becomes absolute. If an appeal is taken, the divorce is not absolute until after affirmance of the decree.

30-3-10. Custody of children in case of separation or divorce - Custody consideration.

(1) If a husband and wife having minor children are separated, or their marriage is declared void or dissolved, the court shall make an order for the future care and custody of the minor children as it considers appropriate.

(a) In determining any form of custody, the court shall consider the best interests of the child and, among other factors the court finds relevant, the following:

(i) the past conduct and demonstrated moral standards of each of the parties;

(ii) which parent is most likely to act in the best interest of the child, including allowing the child frequent and continuing contact with the noncustodial parent; and

(iii) those factors outlined in Section 30-3-10.2.

(b) The court shall, in every case, consider joint custody but may award any form of custody which is determined to be in the best interest of the child.

(c) The children may not be required by either party to testify unless the trier of fact determines that extenuating circumstances exist that would necessitate the testimony of the children be heard and there is no other reasonable method to present their testimony.

(d) The court may inquire of the children and take into consideration the children's desires regarding future custody or parent-time schedules, but the expressed desires are not controlling and the court may determine the children's custody or parent-time otherwise. The desires of a child 16 years of age or older shall be given added weight, but is not the single controlling factor.

(e) If interviews with the children are conducted by the court pursuant to Subsection (1)(d), they shall be conducted by the judge in camera. The prior consent of the parties may be obtained but is not necessary if the court finds that an interview with the children is the only method to ascertain the child's desires regarding custody.

(2) In awarding custody, the court shall consider, among other factors the court finds relevant, which parent is most likely to act in the best interests of the child, including allowing the child frequent and continuing contact with the noncustodial parent as the court finds appropriate.

(3) If the court finds that one parent does not desire custody of the child, or has attempted to permanently relinquish custody to a third party, it shall take that evidence into consideration in determining whether to award custody to the other parent.

(4)(a) Except as provided in Subsection (4)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) If a court takes a parent's disability into account in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody, the parent with a disability may rebut any evidence, presumption, or inference arising from the disability by showing that:

(i) the disability does not significantly or substantially inhibit the parent's ability to provide for the physical and emotional needs of the child at issue; or

(ii) the parent with a disability has sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78, Chapter 30, Adoption.

(5) This section establishes neither a preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

30-3-10.1. Definitions - Joint legal custody - Joint physical custody.

As used in this chapter:

(1) "Joint legal custody":

(a) means the sharing of the rights, privileges, duties, and powers of a parent by both parents, where specified;

(b) may include an award of exclusive authority by the court to one parent to make specific decisions;

(c) does not affect the physical custody of the child except as specified in the order of joint legal custody;

(d) is not based on awarding equal or nearly equal periods of physical custody of and access to the child to each of the parents, as the best interest of the child often requires that a primary physical residence for the child be designated; and

(e) does not prohibit the court from specifying one parent as the primary caretaker and one home as the primary residence of the child.

(2) "Joint physical custody":

(a) means the child stays with each parent overnight for more than 30% of the year, and both parents contribute to the expenses of the child in addition to paying child support;

(b) can mean equal or nearly equal periods of physical custody of and access to the child by each of the parents, as required to meet the best interest of the child;

(c) may require that a primary physical residence for the child be designated; and

(d) does not prohibit the court from specifying one parent as the primary caretaker and one home as the primary residence of the child.

30-3-10.2. Joint custody order - Factors for court determination - Public assistance.

(1) The court may order joint legal custody or joint physical custody or both if one or both parents have filed a parenting plan in accordance with Section 30-3-10.8 and it determines that joint legal custody or joint physical custody or both is in the best interest of the child.

(2) In determining whether the best interest of a child will be served by ordering joint legal or physical custody, the court shall consider the following factors:

(a) whether the physical, psychological, and emotional needs and development of the child will benefit from joint legal or physical custody;

(b) the ability of the parents to give first priority to the welfare of the child and reach shared decisions in the child's best interest;

- (c) whether each parent is capable of encouraging and accepting a positive relationship between the child and the other parent, including the sharing of love, affection, and contact between the child and the other parent;
 - (d) whether both parents participated in raising the child before the divorce;
 - (e) the geographical proximity of the homes of the parents;
 - (f) the preference of the child if the child is of sufficient age and capacity to reason so as to form an intelligent preference as to joint legal or physical custody;
 - (g) the maturity of the parents and their willingness and ability to protect the child from conflict that may arise between the parents;
 - (h) the past and present ability of the parents to cooperate with each other and make decisions jointly;
 - (i) any history of, or potential for, child abuse, spouse abuse, or kidnaping; and
 - (j) any other factors the court finds relevant.
- (3) The determination of the best interest of the child shall be by a preponderance of the evidence.
- (4) The court shall inform both parties that an order for joint physical custody may preclude eligibility for cash assistance provided under Title 35A, Chapter 3, Employment Support Act.
- (5) The court may order that where possible the parties attempt to settle future disputes by a dispute resolution method before seeking enforcement or modification of the terms and conditions of the order of joint legal custody or joint physical custody through litigation, except in emergency situations requiring ex parte orders to protect the child.

30-3-10.3. Terms of joint legal custody order.

- (1) Unless the court orders otherwise, before a final order of joint legal custody is entered both parties shall attend the mandatory course for divorcing parents, as provided in Section 30-3-11.3, and present a certificate of completion from the course to the court.
- (2) An order of joint legal custody shall provide terms the court determines appropriate, which may include specifying:
- (a) either the county of residence of the child, until altered by further order of the court, or the custodian who has the sole legal right to determine the residence of the child;
 - (b) that the parents shall exchange information concerning the health, education, and welfare of the child, and where possible, confer before making decisions concerning any of these areas;
 - (c) the rights and duties of each parent regarding the child's present and future physical care, support, and education;

(d) provisions to minimize disruption of the child's attendance at school and other activities, his daily routine, and his association with friends; and

(e) as necessary, the remaining parental rights, privileges, duties, and powers to be exercised by the parents solely, concurrently, or jointly.

(3) The court shall, where possible, include in the order the terms of the parenting plan provided in accordance with Section 30-3-10.8.

(4) Any parental rights not specifically addressed by the court order may be exercised by the parent having physical custody of the child the majority of the time.

(5)(a) The appointment of joint legal custodians does not impair or limit the authority of the court to order support of the child, including payments by one custodian to the other.

(b) An order of joint legal custody, in itself, is not grounds for modifying a support order.

(c) The agreement shall contain a dispute resolution procedure the parties agree to use before seeking enforcement or modification of the terms and conditions of the order of joint legal custody through litigation, except in emergency situations requiring ex parte orders to protect the child.

30-3-10.4. Modification or termination of order.

(1) On the motion of one or both of the parents, or the joint legal custodians if they are not the parents, the court may, after a hearing, modify an order that established custody if:

(a) the circumstances of the child or one or both custodians have materially and substantially changed since the entry of the order to be modified; and

(b) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the child.

(2) A parent requesting a modification from sole custody to joint legal custody or joint physical custody or both, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan with the petition to modify in accordance with Section 30-3-10.8.

(3) The order of joint legal custody may be terminated by order of the court if one or both parents file a motion for termination and the court determines that the joint legal custody order is unworkable or inappropriate under existing circumstances. At the time of entry of an order terminating joint legal custody, the court shall enter an order of sole legal custody under Section 30-3-10. All related issues, including parent-time and child support, shall also be determined and ordered by the court.

(4) If the court finds that an action under this section is filed or answered frivolously and in a manner designed to harass the other party, the court shall assess attorney's fees as costs against the offending party.

30-3-10.5. Payments of support, maintenance, and alimony.

(1) All monthly payments of support, maintenance, or alimony provided for in the order or decree shall be due on the first day of each month for purposes of Section 78-45-9.3, child support services pursuant to Title 62A, Chapter 11, Part 3, Public Support of Child, income withholding services pursuant to Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and other income withholding procedures pursuant to Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases.

(2) For purposes of child support services and income withholding pursuant to Title 62A, Chapter 11, Part 3 and Part 4, child support is not considered past due until the first day of the following month.

(3) For purposes other than those specified in Subsections (1) and (2), support shall be payable 1/2 by the 5th day of each month and 1/2 by the 20th day of that month, unless the order or decree provides for a different time for payment.

30-3-10.7. Parenting plan - Definitions.

(1) "Parenting plan" means a plan for parenting a child, including allocation of parenting functions, which is incorporated in any final decree or decree of modification including an action for dissolution of marriage, annulment, legal separation, or paternity.

(2) "Parenting functions" means those aspects of the parent-child relationship in which the parent makes decisions and performs functions necessary for the care and growth of the child. Parenting functions include:

(a) maintaining a loving, stable, consistent, and nurturing relationship with the child;

(b) attending to the daily needs of the child, such as feeding, clothing, physical care, grooming, supervision, health care, day care, and engaging in other activities which are appropriate to the developmental level of the child and that are within the social and economic circumstances of the particular family;

(c) attending to adequate education for the child, including remedial or other education essential to the best interest of the child;

(d) assisting the child in developing and maintaining appropriate interpersonal relationships;

(e) exercising appropriate judgment regarding the child's welfare, consistent with the child's developmental level and family social and economic circumstances; and

(f) providing for the financial support of the child.

30-3-10.8. Parenting plan - Filing - Modifications.

(1) In any proceeding under this chapter, including actions for paternity, any party requesting joint custody, joint legal or physical custody, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan at the time of the filing of their original petition or at the time of filing their answer or counterclaim.

(2) In proceedings for a modification of custody provisions or modification of a parenting plan, a proposed parenting plan shall be filed and served with the petition to modify, or the answer or counterclaim to the petition to modify.

(3) A party who files a proposed parenting plan in compliance with this section may move the court for an order of default to adopt the plan if the other party fails to file a proposed parenting plan as required by this section.

(4) Either party may file and serve an amended proposed parenting plan according to the rules for amending pleadings.

(5) The parent submitting a proposed parenting plan shall attach a verified statement that the plan is proposed by that parent in good faith.

(6) Both parents may submit a parenting plan which has been agreed upon. A verified statement, signed by both parents, shall be attached.

(7) If the parents file inconsistent parenting plans, the court may appoint a guardian ad litem to represent the best interests of the child, who may, if necessary, file a separate parenting plan reflecting the best interests of the child.

30-3-10.9. Parenting plan - Objectives - Required provisions - Dispute resolution.

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

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

(b) maintain the child's emotional stability;

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

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

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

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

(g) protect the best interests of the child.

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

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

- (a) counseling;
 - (b) mediation or arbitration by a specified individual or agency; or
 - (c) court action.
- (4) In the dispute resolution process:
- (a) preference shall be given to the provisions in the parenting plan;
 - (b) parents shall use the designated process to resolve disputes relating to implementation of the plan, except those related to financial support, unless an emergency exists;
 - (c) a written record shall be prepared of any agreement reached in counseling or mediation and provided to each party;
 - (d) if arbitration becomes necessary, a written record shall be prepared and a copy of the arbitration award shall be provided to each party;
 - (e) if the court finds that a parent has used or frustrated the dispute resolution process without good reason, the court may award attorney's fees and financial sanctions to the prevailing parent;
 - (f) the district court shall have the right of review from the dispute resolution process; and
 - (g) the provisions of this Subsection (4) shall be set forth in any final decree or order.
- (5) The parenting plan shall allocate decision-making authority to one or both parties regarding the children's education, health care, and religious upbringing. The parties may incorporate an agreement related to the care and growth of the children in these specified areas or in other areas into their plan, consistent with the criteria outlined in Subsection 30-3-10.7(2) and Subsection (1). Regardless of the allocation of decision-making in the parenting plan, either parent may make emergency decisions affecting the health or safety of the child.
- (6) Each parent may make decisions regarding the day-to-day care and control of the child while the child is residing with that parent.
- (7) When mutual decision-making is designated but cannot be achieved, the parties shall make a good faith effort to resolve the issue through the dispute resolution process.
- (8) The plan shall include a residential schedule which designates in which parent's home each minor child shall reside on given days of the year, including provisions for holidays, birthdays of family members, vacations, and other special occasions.
- (9) If a parent fails to comply with a provision of the parenting plan or a child support order, the other parent's obligations under the parenting plan or the child support order are not affected. Failure to comply with a provision of the parenting plan or a child support order may result in a finding of contempt of court.

30-3-11.1. Family Court Act - Purpose.

It is the public policy of the state of Utah to strengthen the family life foundation of our society and reduce the social and economic costs to the state resulting from broken homes and to take reasonable measures to preserve marriages, particularly where minor children are involved. The purposes of this act are to protect the rights of children and to promote the public welfare by preserving and protecting family life and the institution of matrimony by providing the courts with further assistance for family counseling, the reconciliation of spouses and the amicable settlement of domestic and family controversies.

30-3-11.2. Appointment of counsel for child.

If, in any action before any court of this state involving the custody or support of a child, it shall appear in the best interests of the child to have a separate exposition of the issues and personal representation for the child, the court may appoint counsel to represent the child throughout the action, and the attorney's fee for such representation may be taxed as a cost of the action.

30-3-11.3. Mandatory educational course for divorcing parents - Purpose - Curriculum - Exceptions.

(1) There is established a mandatory course for divorcing parents as a pilot program in the third and fourth judicial districts to be administered by the Administrative Office of the Courts from July 1, 1992, to June 30, 1994. On July 1, 1994, an approved course shall be implemented in all judicial districts. The mandatory course is designed to educate and sensitize divorcing parties to their children's needs both during and after the divorce process.

(2) The Judicial Council shall adopt rules to implement and administer this program.

(3) As a prerequisite to receiving a divorce decree, both parties are required to attend a mandatory course on their children's needs after filing a complaint for divorce and receiving a docket number, unless waived under Section 30-3-4. If that requirement is waived, the court may permit the divorce action to proceed.

(4) The mandatory course shall instruct both parties about divorce and its impacts on:

- (a) their child or children;
- (b) their family relationship; and
- (c) their financial responsibilities for their child or children.

(5) The Administrative Office of the Courts shall administer the course pursuant to Title 63, Chapter 56, Utah Procurement Code, through private or public contracts and organize the program in each of Utah's judicial districts. The contracts shall provide for the recoupment of administrative expenses through the costs charged to individual parties, pursuant to Subsection (7).

(6) A certificate of completion constitutes evidence to the court of course completion by the parties.

(7)(a) Each party shall pay the costs of the course to the independent contractor providing the course at the time and place of the course. A fee of \$8 shall be collected, as part of the course fee paid by each participant, and deposited in the Children's Legal Defense Account, described in Section 63-63a-8.

(b) Each party who is unable to pay the costs of the course may attend the course without payment upon a prima facie showing of impecuniosity as evidenced by an affidavit of impecuniosity filed in the district court. In those situations, the independent contractor shall be reimbursed for its costs from the appropriation to the Administrative Office of the Courts for "Mandatory Educational Course for Divorcing Parents Program." Before a decree of divorce may be entered, the court shall make a final review and determination of impecuniosity and may order the payment of the costs if so determined.

(8) Appropriations from the General Fund to the Administrative Office of the Courts for the "Mandatory Educational Course for Divorcing Parents Program" shall be used to pay the costs of an indigent parent who makes a showing as provided in Subsection (7)(b).

(9) The Administrative Office of the Courts shall adopt a program to evaluate the effectiveness of the mandatory educational course. Progress reports shall be provided annually to the Judiciary Interim Committee.

30-3-16.2. Petition for conciliation.

Prior to the filing of any action for divorce, annulment, or separate maintenance, either spouse or both spouses may file a petition for conciliation in the family court division invoking the jurisdiction of the court for the purpose of preserving the marriage by effecting a reconciliation between the parties or an amicable settlement of the controversy between them so as to avoid litigation over the issues involved.

30-3-16.3. Contents of petition.

The petition for conciliation shall state:

(1) A controversy exists between the spouses and request the aid of the court to effect a reconciliation or an amicable settlement of the controversy.

(2) The name and age of each child under the age of 17 years whose welfare may be affected by the controversy.

(3) The name and address of the petitioner or the names and addresses of the petitioners.

(4) If the petition is filed by one spouse only, the name and address of the other spouse as a respondent.

(5) The name, as a respondent, of any other person who has any relation to the controversy and, if known to the petitioners, the address of such person.

(6) Such other information as the court may by rule require.

30-3-16.7. Effect of petition - Pendency of action.

The filing of a petition for conciliation under this act shall, for a period of 60 days thereafter, act as a bar to the filing by either spouse of an action for divorce, annulment of marriage or separate maintenance unless the court otherwise orders. The pendency of an action for divorce, annulment of marriage or separate maintenance shall not prevent either party to the action from filing a petition for conciliation under this act, either on his own or at the request and direction of the court as authorized by Section 30-3-17; and the filing of a petition for conciliation shall stay for a period of 60 days, unless the court otherwise orders, any trial or default hearing upon the complaint. However, when the judge of the family court division is advised in writing by a marriage counselor to whom a petition for conciliation has been referred that a reconciliation of the parties cannot be effected, the bar to filing an action or the stay of trial or default hearing shall be removed.

30-3-17.1. Proceedings deemed confidential - Written evaluation by counselor.

The petition for conciliation and all communications, verbal or written, from the parties to the domestic relations counselors or other personnel of the conciliation department in counseling or conciliation proceedings shall be deemed to be made in official confidence within the meaning of Section 78-24-8 and shall not be admissible or usable for any purpose in any divorce hearing or other proceeding. However, the marriage counselor may submit to the appropriate court a written evaluation of the prospects or prognosis of a particular marriage without divulging facts or revealing confidential disclosures.

30-3-18. Waiting period for hearing after filing for divorce - Exemption - Use of counseling and education services not to be construed as condonation or promotion.

(1) Unless the court, for good cause shown and set forth in the findings, otherwise orders, no hearing for decree of divorce shall be held by the court until 90 days shall have elapsed from the filing of the complaint, provided the court may make such interim orders as may be just and equitable.

(2) The 90-day period as provided in Subsection (1) shall not apply in any case where both parties have completed the mandatory educational course for divorcing parents as provided in Section 30-3-11.3.

(3) The use of counseling, mediation, and education services provided under this chapter may not be construed as condoning the acts that may constitute grounds for divorce on the part of either spouse nor of promoting divorce.

30-3-32. Parent-time - Intent - Policy - Definitions.

(1) It is the intent of the Legislature to promote parent-time at a level consistent with all parties' interests.

(2) Absent a showing by a preponderance of evidence of real harm or substantiated potential harm to the child:

(a) it is in the best interests of the child of divorcing, divorced, or adjudicated parents to have frequent, meaningful, and continuing access to each parent following separation or divorce;

(b) each divorcing, separating, or adjudicated parent is entitled to and responsible for frequent, meaningful, and continuing access with his child consistent with the child's best interests; and

(c) it is in the best interests of the child to have both parents actively involved in parenting the child.

(3) For purposes of Sections 30-3-32 through 30-3-37:

(a) "Child" means the child or children of divorcing, separating, or adjudicated parents.

(b) "Christmas school vacation" means the time period beginning on the evening the child gets out of school for the Christmas or winter school break until the evening before the child returns to school, except for Christmas Eve and Christmas Day.

(c) "Extended parent-time" means a period of parent-time other than a weekend, holiday as provided in Subsections 30-3-35(2)(f) and (2)(g), religious holidays as provided in Subsections 30-3-33(3) and (15), and "Christmas school vacation."

(d) "Virtual parent-time" means parent-time facilitated by tools such as telephone, email, instant messaging, video conferencing, and other wired or wireless technologies over the Internet or other communication media to supplement in-person visits between a noncustodial parent and a child or between a child and the custodial parent when the child is staying with the noncustodial parent. Virtual parent-time is designed to supplement, not replace, in-person parent-time.

30-3-33. Advisory guidelines.

In addition to the parent-time schedules provided in Sections 30-3-35 and 30-3-35.5, advisory guidelines are suggested to govern all parent-time arrangements between parents. These advisory guidelines include:

(1) parent-time schedules mutually agreed upon by both parents are preferable to a court-imposed solution;

(2) the parent-time schedule shall be utilized to maximize the continuity and stability of the child's life;

(3) special consideration shall be given by each parent to make the child available to attend family functions including funerals, weddings, family reunions, religious holidays, important ceremonies, and other significant events in the life of the child or in the life of either parent which may inadvertently conflict with the parent-time schedule;

(4) the responsibility for the pick up, delivery, and return of the child shall be determined by the court when the parent-time order is entered, and may be changed at any time a subsequent modification is made to the parent-time order;

(5) if the noncustodial parent will be providing transportation, the custodial parent shall have the child ready for parent-time at the time the child is to be picked up and shall be present at the custodial home or shall make reasonable alternate arrangements to receive the child at the time the child is returned;

(6) if the custodial parent will be transporting the child, the noncustodial parent shall be at the appointed place at the time the noncustodial parent is to receive the child, and have the child ready to be picked up at the appointed time and place, or have made reasonable alternate arrangements for the custodial parent to pick up the child;

(7) regular school hours may not be interrupted for a school-age child for the exercise of parent-time by either parent;

(8) the court may make alterations in the parent-time schedule to reasonably accommodate the work schedule of both parents and may increase the parent-time allowed to the noncustodial parent but shall not diminish the standardized parent-time provided in Sections 30-3-35 and 30-3-35.5;

- (9) the court may make alterations in the parent-time schedule to reasonably accommodate the distance between the parties and the expense of exercising parent-time;
- (10) neither parent-time nor child support is to be withheld due to either parent's failure to comply with a court-ordered parent-time schedule;
- (11) the custodial parent shall notify the noncustodial parent within 24 hours of receiving notice of all significant school, social, sports, and community functions in which the child is participating or being honored, and the noncustodial parent shall be entitled to attend and participate fully;
- (12) the noncustodial parent shall have access directly to all school reports including preschool and daycare reports and medical records and shall be notified immediately by the custodial parent in the event of a medical emergency;
- (13) each parent shall provide the other with his current address and telephone number, email address, and other virtual parent-time access information within 24 hours of any change;
- (14) each parent shall permit and encourage, during reasonable hours, reasonable and uncensored communications with the child, in the form of mail privileges and virtual parent-time if the equipment is reasonably available, provided that 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;
- (15) parental care shall be presumed to be better care for the child than surrogate care and the court shall encourage the parties to cooperate in allowing the noncustodial parent, if willing and able, to provide child care;
- (16) each parent shall provide all surrogate care providers with the name, current address, and telephone number of the other parent and shall provide the noncustodial parent with the name, current address, and telephone number of all surrogate care providers unless the court for good cause orders otherwise; and
- (17) each parent shall be entitled to an equal division of major religious holidays celebrated by the parents, and the parent who celebrates a religious holiday that the other parent does not celebrate shall have the right to be together with the child on the religious holiday.

30-3-34. Best interests - Rebuttable presumption.

- (1) If the parties are unable to agree on a parent-time schedule, the court may establish a parent-time schedule consistent with the best interests of the child.
- (2) The advisory guidelines as provided in Section 30-3-33 and the parent-time schedule as provided in Sections 30-3-35 and 30-3-35.5 shall be presumed to be in the best interests of the child. The parent-time schedule shall be considered the

minimum parent-time to which the noncustodial parent and the child shall be entitled unless a parent can establish otherwise by a preponderance of the evidence that more or less parent-time should be awarded based upon any of the following criteria:

- (a) parent-time would endanger the child's physical health or significantly impair the child's emotional development;
 - (b) the distance between the residency of the child and the noncustodial parent;
 - (c) a substantiated or unfounded allegation of child abuse has been made;
 - (d) the lack of demonstrated parenting skills without safeguards to ensure the child's well-being during parent-time;
 - (e) the financial inability of the noncustodial parent to provide adequate food and shelter for the child during periods of parent-time;
 - (f) the preference of the child if the court determines the child to be of sufficient maturity;
 - (g) the incarceration of the noncustodial parent in a county jail, secure youth corrections facility, or an adult corrections facility;
 - (h) shared interests between the child and the noncustodial parent;
 - (i) the involvement of the noncustodial parent in the school, community, religious, or other related activities of the child;
 - (j) the availability of the noncustodial parent to care for the child when the custodial parent is unavailable to do so because of work or other circumstances;
 - (k) a substantial and chronic pattern of missing, canceling, or denying regularly scheduled parent-time;
 - (l) the minimal duration of and lack of significant bonding in the parents' relationship prior to the conception of the child;
 - (m) the parent-time schedule of siblings;
 - (n) the lack of reasonable alternatives to the needs of a nursing child; and
 - (o) any other criteria the court determines relevant to the best interests of the child.
- (3) The court shall enter the reasons underlying its order for parent-time that:
- (a) incorporates a parent-time schedule provided in Section 30-3-35 or 30-3-35.5; or
 - (b) provides more or less parent-time than a parent-time schedule provided in Section 30-3-35 or 30-3-35.5.
- (4) Once the parent-time schedule has been established, the parties may not alter the schedule except by mutual consent of the parties or a court order.

30-3-35. Minimum schedule for parent-time for children 5 to 18 years of age.

(1) The parent-time schedule in this section applies to children 5 to 18 years of age.

(2) If the parties do not agree to a parent-time schedule, the following schedule shall be considered the minimum parent-time to which the noncustodial parent and the child shall be entitled:

(a)(i) one weekday evening to be specified by the noncustodial parent or the court from 5:30 p.m. until 8:30 p.m.; or

(ii) at the election of the noncustodial parent, one weekday from the time the child's school is regularly dismissed until 8:30 p.m., unless the court directs the application of Subsection (2)(a)(i);

(b)(i) alternating weekends beginning on the first weekend after the entry of the decree from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year; or

(ii) at the election of the noncustodial parent, from the time the child's school is regularly dismissed on Friday until 7 p.m. on Sunday, unless the court directs the application of Subsection (2)(b)(i);

(c) holidays take precedence over the weekend parent-time, and changes shall not be made to the regular rotation of the alternating weekend parent-time schedule;

(d) if a holiday falls on a regularly scheduled school day, the noncustodial parent shall be responsible for the child's attendance at school for that school day;

(e)(i) if a holiday falls on a weekend or on a Friday or Monday and the total holiday period extends beyond that time so that the child is free from school and the parent is free from work, the noncustodial parent shall be entitled to this lengthier holiday period; or

(ii) at the election of the noncustodial parent, parent-time over a scheduled holiday weekend may begin from the time the child's school is regularly dismissed at the beginning of the holiday weekend until 7 p.m. on the last day of the holiday weekend;

(f) in years ending in an odd number, the noncustodial parent is entitled to the following holidays:

(i) child's birthday on the day before or after the actual birthdate beginning at 3 p.m. until 9 p.m.; at the discretion of the noncustodial parent, he may take other siblings along for the birthday;

(ii) Martin Luther King, Jr. beginning 6 p.m. on Friday until Monday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(iii) spring break or Easter holiday beginning at 6 p.m. on the day school lets out for the holiday until 7 p.m. on the Sunday before school resumes;

(iv) Memorial Day beginning 6 p.m. on Friday until Monday at 7 p.m., unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

- (v) July 24th beginning 6 p.m. on the day before the holiday until 11 p.m. on the holiday;
- (vi) Veteran's Day holiday beginning 6 p.m. the day before the holiday until 7 p.m. on the holiday; and
- (vii) the first portion of the Christmas school vacation as defined in Subsection 30-3-32(3)(b) plus Christmas Eve and Christmas Day until 1 p.m., so long as the entire holiday is equally divided;
- (g) in years ending in an even number, the noncustodial parent is entitled to the following holidays:
 - (i) child's birthday on actual birthdate beginning at 3 p.m. until 9 p.m.; at the discretion of the noncustodial parent, he may take other siblings along for the birthday;
 - (ii) Washington and Lincoln Day beginning at 6 p.m. on Friday until 7 p.m. on Monday unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;
 - (iii) July 4th beginning at 6 p.m. the day before the holiday until 11 p.m. on the holiday;
 - (iv) Labor Day beginning at 6 p.m. on Friday until Monday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;
 - (v) the fall school break, if applicable, commonly known as U.E.A. weekend beginning at 6 p.m. on Wednesday until Sunday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;
 - (vi) Columbus Day beginning at 6 p.m. the day before the holiday until 7 p.m. on the holiday;
 - (vii) Thanksgiving holiday beginning Wednesday at 7 p.m. until Sunday at 7 p.m.; and
 - (viii) the second portion of the Christmas school vacation, including New Year's Day, as defined in Subsection 30-3-32(3)(b) plus Christmas day beginning at 1 p.m. until 9 p.m., so long as the entire Christmas holiday is equally divided;
- (h) the custodial parent is entitled to the odd year holidays in even years and the even year holidays in odd years;
 - (i) Father's Day shall be spent with the natural or adoptive father every year beginning at 9 a.m. until 7 p.m. on the holiday;
 - (j) Mother's Day shall be spent with the natural or adoptive mother every year beginning at 9 a.m. until 7 p.m. on the holiday;
- (k) extended parent-time with the noncustodial parent may be:
 - (i) up to four weeks consecutive at the option of the noncustodial parent;
 - (ii) two weeks shall be uninterrupted time for the noncustodial parent; and

(iii) the remaining two weeks shall be subject to parent-time for the custodial parent consistent with these guidelines;

(l) the custodial parent shall have an identical two-week period of uninterrupted time during the children's summer vacation from school for purposes of vacation;

(m) if the child is enrolled in year-round school, the noncustodial parent's extended parent-time shall be 1/2 of the vacation time for year-round school breaks, provided the custodial parent has holiday and phone visits;

(n) notification of extended parent-time or vacation weeks with the child shall be provided at least 30 days in advance to the other parent; and

(o) telephone contact and other virtual parent-time, if the equipment is reasonably available, shall be at reasonable hours and for reasonable duration, provided that 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.

(3) Any elections required to be made in accordance with this section by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.

30-3-35.5. Minimum schedule for parent-time for children under five years of age.

(1) The parent-time schedule in this section applies to children under five years old.

(2) If the parties do not agree to a parent-time schedule, the following schedule shall be considered the minimum parent-time to which the noncustodial parent and the child shall be entitled:

(a) for children under five months of age:

(i) six hours of parent-time per week to be specified by the court or the noncustodial parent preferably:

(A) divided into three parent-time periods; and

(B) in the custodial home, established child care setting, or other environment familiar to the child; and

(ii) two hours on holidays and in the years specified in Subsections 30-3-35(2)(f) through (i) preferably in the custodial home, the established child care setting, or other environment familiar to the child;

(b) for children five months of age or older, but younger than ten months of age:

(i) nine hours of parent-time per week to be specified by the court or the noncustodial parent preferably:

- (A) divided into three parent-time periods; and
- (B) in the custodial home, established child care setting, or other environment familiar to the child; and
 - (ii) two hours on the holidays and in the years specified in Subsections 30-3-35(2)(f) through (i) preferably in the custodial home, the established child care setting, or other environment familiar to the child;
- (c) for children ten months of age or older, but younger than 18 months of age:
 - (i) one eight hour visit per week to be specified by the noncustodial parent or court;
 - (ii) one three hour visit per week to be specified by the noncustodial parent or court;
 - (iii) eight hours on the holidays and in the years specified in Subsections 30-3-35(2)(f) through (i); and
 - (iv) brief telephone contact and other virtual parent-time, if the equipment is reasonably available, with the noncustodial parent at least two times per week, provided that 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;
- (d) for children 18 months of age or older, but younger than three years of age:
 - (i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the noncustodial parent or court; however, if the child is being cared for during the day outside his regular place of residence, the noncustodial parent may, with advance notice to the custodial parent, pick up the child from the caregiver at an earlier time and return him to the custodial parent by 8:30 p.m.;
 - (ii) alternative weekends beginning on the first weekend after the entry of the decree from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;
 - (iii) parent-time on holidays as specified in Subsections 30-3-35(2)(c) through (i);
 - (iv) extended parent-time may be:
 - (A) two one-week periods, separated by at least four weeks, at the option of the noncustodial parent;
 - (B) one week shall be uninterrupted time for the noncustodial parent;
 - (C) the remaining week shall be subject to parent-time for the custodial parent consistent with these guidelines; and

- (D) the custodial parent shall have an identical one-week period of uninterrupted time for vacation; and
- (v) brief telephone contact and virtual parent-time, if the equipment is reasonably available, with the noncustodial parent at least two times per week, provided that 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;
- (e) for children three years of age or older, but younger than five years of age:
- (i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the noncustodial parent or court; however, if the child is being cared for during the day outside his regular place of residence, the noncustodial parent may, with advance notice to the custodial parent, pick up the child from the caregiver at an earlier time and return him to the custodial parent by 8:30 p.m.;
 - (ii) alternative weekends beginning on the first weekend after the entry of the decree from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;
 - (iii) parent-time on holidays as specified in Subsections 30-3-35(2)(c) through (i);
 - (iv) extended parent-time with the noncustodial parent may be:
 - (A) two two-week periods, separated by at least four weeks, at the option of the noncustodial parent;
 - (B) one two-week period shall be uninterrupted time for the noncustodial parent;
 - (C) the remaining two-week period shall be subject to parent-time for the custodial parent consistent with these guidelines; and
 - (D) the custodial parent shall have an identical two-week period of uninterrupted time for vacation; and
 - (v) brief telephone contact and virtual parent-time, if the equipment is reasonably available, with the noncustodial parent at least two times per week, provided that 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.

(3) A parent shall notify the other parent at least 30 days in advance of extended parent-time or vacation weeks.

(4) Virtual parent-time shall be at reasonable hours and for reasonable duration.

30-3-36. Special circumstances.

(1) When parent-time has not taken place for an extended period of time and the child lacks an appropriate bond with the noncustodial parent, both parents shall consider the possible adverse effects upon the child and gradually reintroduce an appropriate parent-time plan for the noncustodial parent.

(2) For emergency purposes, whenever the child travels with either parent, all of the following will be provided to the other parent:

(a) an itinerary of travel dates;

(b) destinations;

(c) places where the child or traveling parent can be reached; and

(d) the name and telephone number of an available third person who would be knowledgeable of the child's location.

(3) Unchaperoned travel of a child under the age of five years is not recommended.

30-3-37. Relocation.

(1) When either parent decides to move from the state of Utah or 150 miles or more from the residence specified in the court's decree, that parent shall provide if possible 60 days advance written notice of the intended relocation to the other parent. The written notice of relocation shall contain statements affirming the following:

(a) the parent-time provisions in Subsection (5) or a schedule approved by both parties will be followed; and

(b) neither parent will interfere with the other's parental rights pursuant to court ordered parent-time arrangements, or the schedule approved by both parties.

(2) The court may, upon motion of any party or upon the court's own motion, schedule a hearing with notice to review the notice of relocation and parent-time schedule as provided in Section 30-3-35 and make appropriate orders regarding the parent-time and costs for parent-time transportation.

(3) In determining the parent-time schedule and allocating the transportation costs, the court shall consider:

(a) the reason for the parent's relocation;

(b) the additional costs or difficulty to both parents in exercising parent-time;

(c) the economic resources of both parents; and

- (d) other factors the court considers necessary and relevant.
- (4) Upon the motion of any party, the court may order the parent intending to move to pay the costs of transportation for:
- (a) at least one visit per year with the other parent; and
 - (b) any number of additional visits as determined equitable by the court.
- (5) Unless otherwise ordered by the court, upon the relocation of one of the parties the following schedule shall be the minimum requirements for parent-time with a school-age child:
- (a) in years ending in an odd number, the child shall spend the following holidays with the noncustodial parent:
 - (i) Thanksgiving holiday beginning Wednesday until Sunday; and
 - (ii) the fall school break, if applicable, beginning the last day of school before the holiday until the day before school resumes;
 - (b) in years ending in an even number, the child shall spend the following holidays with the noncustodial parent:
 - (i) the entire winter school break period; and
 - (ii) Spring break beginning the last day of school before the holiday until the day before school resumes; and
 - (c) extended parent-time equal to 1/2 of the summer or off-track time for consecutive weeks. The week before school begins may not be counted as part of the summer period.
- (6) Upon the motion of any party, the court may order uninterrupted parent-time with the noncustodial parent for a minimum of 30 days during extended parent-time, unless the court finds it is not in the best interests of the child. If the court orders uninterrupted parent-time during a period not covered by this section, it shall specify in its order which parent is responsible for the child's travel expenses.
- (7) Unless otherwise ordered by the court the relocating party shall be responsible for all the child's travel expenses relating to Subsections (5)(a) and (b) and 1/2 of the child's travel expenses relating to Subsection (5)(c), provided the noncustodial party is current on all support obligations. If the noncustodial party has been found in contempt for not being current on all support obligations, he shall be responsible for all of the child's travel expenses under Subsection (5), unless the court rules otherwise. Reimbursement by either responsible party to the other for the child's travel expenses shall be made within 30 days of receipt of documents detailing those expenses.
- (8) The court may apply this provision to any preexisting decree of divorce.
- (9) Any action under this section may be set for an expedited hearing.
- (10) A parent who fails to comply with the notice of relocation in Subsection (1) shall be in contempt of the court's order.

30-3-38. Pilot Program for Expedited Parent-time Enforcement.

(1) There is established an Expedited Parent-time Enforcement Pilot Program in the third judicial district to be administered by the Administrative Office of the Courts from July 1, 2003, to July 1, 2007.

(2) As used in this section:

(a) "Mediator" means a person who:

(i) is qualified to mediate parent-time disputes under criteria established by the Administrative Office of the Courts; and

(ii) agrees to follow billing guidelines established by the Administrative Office of the Courts and this section.

(b) "Services to facilitate parent-time" or "services" means services designed to assist families in resolving parent-time problems through:

(i) counseling;

(ii) supervised parent-time;

(iii) neutral drop-off and pick-up;

(iv) educational classes; and

(v) other related activities.

(3)(a) Under this pilot program, if a parent files a motion in the third district court 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 to the administrator of this pilot program for assignment to a mediator.

(b) Upon receipt of a case, the mediator shall:

(i) meet with the parents to address parent-time issues within 15 days of the motion being filed;

(ii) assess the situation;

(iii) facilitate an agreement on parent-time between the parents; and

(iv) determine whether a referral to a service provider under Subsection (3)(c) is warranted.

(c) While a case is in mediation, a mediator may refer the parents to a service provider designated by the Department of Human Services for services to facilitate parent-time if:

(i) the services may be of significant benefit to the parents; or

(ii) (A) a mediated agreement between the parents is unlikely; and

(B) the services may facilitate an agreement.

(d) At any time during mediation, a mediator shall terminate mediation and transfer the case to the administrator of the pilot program for referral to the judge or court commissioner to whom the case was assigned under Subsection (3)(a) if:

(i) a written agreement between the parents is reached; or

(ii) the parents are unable to reach an agreement through mediation and:

(A) the parents have received services to facilitate parent-time;

(B) both parents object to receiving services to facilitate parent-time; or

(C) the parents are unlikely to benefit from receiving services to facilitate parent-time.

(e) Upon receiving a case from the administrator of the pilot program, a judge or court commissioner may:

(i) review the agreement of the parents and, if acceptable, sign it as an order;

(ii) order the parents to receive services to facilitate parent-time;

(iii) proceed with the case; or

(iv) take other appropriate action.

(4)(a) If a parent makes a particularized allegation of physical or sexual abuse of a child who is the subject of a parent-time order against the other parent or a member of the other parent's household to a mediator or service provider, the mediator or service provider shall immediately report that information to:

(i) the judge assigned to the case who may immediately issue orders and take other appropriate action to resolve the allegation and protect the child; and

(ii) the Division of Child and Family Services within the Department of Human Services in the manner required by Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements.

(b) If an allegation under Subsection (4)(a) is made against a parent with parent-time rights or a member of that parent's household, parent-time by that parent shall, pursuant to an order of the court, be supervised until:

(i) the allegation has been resolved; or

(ii) a court orders otherwise.

(c) Notwithstanding an allegation under Subsection (4)(a), a mediator may continue to mediate parent-time problems and a service provider may continue to provide services to facilitate parent-time unless otherwise ordered by a court.

(5)(a) The Department of Human Services may contract with one or more entities in accordance with Title 63, Chapter 56, Utah Procurement Code, to provide:

- (i) services to facilitate parent-time;
- (ii) case management services; and
- (iii) administrative services.

(b) An entity who contracts with the Department of Human Services under Subsection (5)(a) shall:

- (i) be qualified to provide one or more of the services listed in Subsection (5)(a); and
- (ii) agree to follow billing guidelines established by the Department of Human Services and this section.

(6)(a) Except as provided in Subsection (6)(b), the cost of mediation shall be:

- (i) reduced to a sum certain;
- (ii) divided equally between the parents; and
- (iii) charged against each parent taking into account the ability of that parent to pay under billing guidelines adopted in accordance with this section.

(b) A judge may order a parent to pay an amount in excess of that provided for in Subsection (6)(a) if the parent:

- (i) failed to participate in good faith in mediation or services to facilitate parent-time; or
- (ii) made an unfounded assertion or claim of physical or sexual abuse of a child.

(c)(i) The cost of mediation and services to facilitate parent-time may be charged to parents at periodic intervals.

(ii) Mediation and services to facilitate parent-time may only be terminated on the ground of nonpayment if both parents are delinquent.

(7) If a parent fails to cooperate in good faith in mediation or services to facilitate parent-time, a court may order, in subsequent proceedings, a temporary change in custody or parent-time.

(8)(a) The Judicial Council may make rules to implement and administer the provisions of this pilot program related to mediation.

(b) The Department of Human Services may make rules to implement and administer the provisions of this pilot program related to services to facilitate parent-time.

(9)(a) The Administrative Office of the Courts shall adopt outcome measures to evaluate the effectiveness of the mediation component of this pilot program. Progress reports shall be provided to the Judiciary Interim Committee as requested by the committee. At least once during this pilot program, the Administrative Office of the Courts shall present to the committee the results of a survey that measures the effectiveness of the program in terms of increased compliance with parent-time orders and the responses of interested persons.

(b) The Department of Human Services shall adopt outcome measures to evaluate the effectiveness of the services component of this pilot program. Progress reports shall be provided to the Judiciary Interim Committee as requested by the committee.

(c) The Administrative Office of the Courts and the Department of Human Services may adopt joint outcome measures and file joint reports to satisfy the requirements of Subsections (8)(a) and (b).

(10)(a) The Department of Human Services shall, by following the procedures and requirements of Title 63, Chapter 38e, Federal Funds Procedures, apply for federal funds as available.

(b) This pilot program shall be funded through funds received under Subsection (10)(a).

30-3-39. Mediation program.

(1) There is established a mandatory domestic mediation program to help reduce the time and tensions associated with obtaining a divorce.

(2) If, after the filing of an answer to a complaint of divorce, there are any remaining contested issues, the parties shall participate in good faith in at least one session of mediation. This requirement does not preclude the entry of pretrial orders before mediation takes place.

(3) The parties shall use a mediator qualified to mediate domestic disputes under criteria established by the Judicial Council in accordance with Section 78-31b-5.

(4) Unless otherwise ordered by the court or the parties agree upon a different payment arrangement, the cost of mediation shall be divided equally between the parties.

(5) The director of dispute resolution programs for the courts, the court, or the mediator may excuse either party from the requirement to mediate for good cause.

(6) Mediation shall be conducted in accordance with the Utah Rules of Court-Annexed Alternative Dispute Resolution.

30-4-1. Action by spouse - Grounds.

Whenever a resident of this state:

- (1) deserts a spouse without good and sufficient cause;
- (2) being of sufficient ability to provide support, neglects or refuses to properly provide for and suitably maintain that spouse;
- (3) having property within this state and the spouse being a resident of this state, so deserts or neglects or refuses to provide such support; or
- (4) where a married person without that person's fault lives separate and apart from that spouse, the district court shall, on the filing of a complaint, allot, assign, set apart and decree as alimony the use of the real and personal estate or earnings of the deserting spouse as the court may determine appropriate. During the pendency of the action, the court may require the deserting spouse to pay a sum as provided in Section 30-3-3.

30-4-3. Custody and maintenance of children - Property and debt division - Support payments.

- (1) In all actions brought under this chapter the court may by order or decree:
 - (a) provide for the care, custody, and maintenance of the minor children of the parties and may determine with which of the parties the children or any of them shall remain;
 - (b)(i) provide for support of either spouse and the support of the minor children remaining with that spouse;
 - (ii) provide how and when support payments shall be made; and
 - (iii) provide that either spouse have a lien upon the property of the other to secure payment of the support or maintenance obligation;
 - (c) award to either spouse the possession of any real or personal property of the other spouse or acquired by the spouses during the marriage; or
 - (d) pursuant to Section 15-4-6.5:
 - (i) specify which party is responsible for the payment of joint debts, obligations, or liabilities contracted or incurred by the parties during the marriage;
 - (ii) require the parties to notify respective creditors or obligees regarding the court's division of debts, obligations, and liabilities and regarding the parties' separate, current addresses; and
 - (iii) provide for the enforcement of these orders.
- (2) The orders and decrees under this section may be enforced by sale of any property of the spouse or by contempt proceedings or otherwise as may be necessary.

(3) The court may change the support or maintenance of a party from time to time according to circumstances, and may terminate altogether any obligation upon satisfactory proof of voluntary and permanent reconciliation. An order or decree of support or maintenance shall in every case be valid only during the joint lives of the husband and wife.

30-4-4. Restraining disposal of property.

At the time of filing the complaint mentioned in Section 30-4-1, or at any time subsequent thereto, the plaintiff may procure from the court, and file with the county recorder of any county in the state in which the defendant may own real estate, an order enjoining and restraining the defendant from disposing of or encumbering the same or any portion thereof, describing such real estate with reasonable certainty, and from the time of filing such order the property described therein shall be charged with a lien in favor of the plaintiff to the extent of any judgment which may be rendered in the action.

30-4-5. Rights and remedies - Imprisonment of husband or wife.

Like rights and remedies shall be extended to either husband or wife on the imprisonment of the other in the state prison under a sentence of one year or more when suitable provision has not been made for the support of the one not so imprisoned.

30-5-1. Definitions.

As used in this act:

- (1) "District court" means the district court with proper jurisdiction over the grandchild.
- (2) "Grandchild" means the child with respect to whom a grandparent is seeking visitation rights under this chapter.
- (3) "Grandparent" means a person whose child, either by blood, marriage, or adoption, is the parent of the grandchild.

30-5-2. Visitation rights of grandparents.

(1) Grandparents have standing to bring an action in district court by petition, requesting visitation in accordance with the provisions and requirements of this section. Grandparents may also file a petition for visitation rights in a pending divorce proceeding or other proceeding involving custody and visitation issues.

(2) There is a rebuttable presumption that a parent's decision with regard to grandparent visitation is in the grandchild's best interests. However, the court may override the parent's decision and grant the petitioner reasonable rights of visitation if the court finds that the petitioner has rebutted the presumption based upon factors which the court considers to be relevant, such as whether:

- (a) the petitioner is a fit and proper person to have visitation with the grandchild;
- (b) visitation with the grandchild has been denied or unreasonably limited;
- (c) the parent is unfit or incompetent;

(d) the petitioner has acted as the grandchild's custodian or caregiver, or otherwise has had a substantial relationship with the grandchild, and the loss or cessation of that relationship is likely to cause harm to the grandchild;

(e) the petitioner's child, who is a parent of the grandchild, has died, or has become a noncustodial parent through divorce or legal separation;

(f) the petitioner's child, who is a parent of the grandchild, has been missing for an extended period of time; or

(g) visitation is in the best interest of the grandchild.

(3) The adoption of a grandchild by the grandchild's stepparent does not diminish or alter visitation rights previously ordered under this section.

(4) Subject to the provisions of Subsections (2) and (3), the court may inquire of the grandchild and take into account the grandchild's desires regarding visitation.

(5) On the petition of a grandparent or the legal custodian of a grandchild the court may, after a hearing, modify an order regarding grandparent visitation if:

(a) the circumstances of the grandchild, the grandparent, or the custodian have materially and substantially changed since the entry of the order to be modified, or the order has become unworkable or inappropriate under existing circumstances; and

(b) the court determines that a modification is appropriate based upon the factors set forth in Subsection (2).

(6) Grandparents may petition the court to remedy a parent's wrongful noncompliance with a visitation order.

30-8-1. Title.

This act shall be known as the "Uniform Premarital Agreement Act."

30-8-2. Definitions.

As used in this chapter:

(1) "Premarital agreement" means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage.

(2) "Property" means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

30-8-3. Writing - Signature required.

A premarital agreement must be in writing and signed by both parties. It is enforceable without consideration.

30-8-4. Content.

(1) Parties to a premarital agreement may contract with respect to:

(a) the rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;

(b) the right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property;

(c) the disposition of property upon separation, marital dissolution, death, or the occurrence or nonoccurrence of any other event;

(d) the modification or elimination of spousal support;

(e) the ownership rights in and disposition of the death benefit from a life insurance policy;

(f) the choice of law governing the construction of the agreement, except that a court of competent jurisdiction may apply the law of the legal domicile of either party, if it is fair and equitable; and

(g) any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.

(2) The right of a child to support, health and medical provider expenses, medical insurance, and child care coverage may not be affected by a premarital agreement.

30-8-5. Effect of marriage - Amendment - Revocation.

(1) A premarital agreement becomes effective upon marriage.

(2) After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties. The amended agreement or the revocation is enforceable without consideration.

30-8-6. Enforcement.

(1) A premarital agreement is not enforceable if the party against whom enforcement is sought proves that:

(a) that party did not execute the agreement voluntarily; or

(b) the agreement was fraudulent when it was executed and, before execution of the agreement, that party:

(i) was not provided a reasonable disclosure of the property or financial obligations of the other party insofar as was possible;

(ii) did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and

(iii) did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.

(2) If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes one party to the agreement to be eligible for support under a program of public assistance at the time of separation or marital dissolution, a court, notwithstanding the terms of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility.

(3) An issue of fraud of a premarital agreement shall be decided by the court as a matter of law.

30-8-7. Enforcement - Void marriage.

If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

30-8-8. Limitations of actions.

Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement.

Chapter 45 Uniform Civil Liability For Support Act

78-45-2. Definitions.

As used in this chapter:

(1) "Adjusted gross income" means income calculated under Subsection 78-45-7.6(1).

(2) "Administrative agency" means the Office of Recovery Services or the Department of Human Services.

(3) "Administrative order" means an order that has been issued by the Office of Recovery Services, the Department of Human Services, or an administrative agency of another state or other comparable jurisdiction with similar authority to that of the office.

(4) "Base child support award" means the award that may be ordered and is calculated using the guidelines before additions for medical expenses and work-related child care costs.

(5) "Base combined child support obligation table," "child support table," "base child support obligation table," "low income table," or "table" means the appropriate table in Section 78-45-7.14.

(6) "Child" means:

(a) a son or daughter under the age of 18 years who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;

(b) a son or daughter over the age of 18 years, while enrolled in high school during the normal and expected year of graduation and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or

(c) a son or daughter of any age who is incapacitated from earning a living and, if able to provide some financial resources to the family, is not able to support self by own means.

(7) "Child support" means a base child support award as defined in Section 78-45-2, or a monthly financial award for uninsured medical expenses, ordered by a tribunal for the support of a child, including current periodic payments, all arrearages which accrue under an order for current periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and child care costs.

(8) "Child support order" or "support order" means a judgment, decree, or order of a tribunal whether interlocutory or final, whether or not prospectively or retroactively modifiable, whether incidental to a proceeding for divorce, judicial or legal separation, separate maintenance, paternity, guardianship, civil protection, or otherwise which:

(a) establishes or modifies child support;

(b) reduces child support arrearages to judgment; or

(c) establishes child support or registers a child support order under Title 78, Chapter 45f, Uniform Interstate Family Support Act.

(9) "Child support services" or "IV-D child support services" means services provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. § 651 et seq.

(10) "Court" means the district court or juvenile court.

(11) "Guidelines" means the child support guidelines in Sections 78-45-7.2 through 78-45-7.21.

(12) "Income" means earnings, compensation, or other payment due to an individual, regardless of source, whether denominated as wages, salary, commission, bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive pay. "Income" includes:

(a) all gain derived from capital assets, labor, or both, including profit gained through sale or conversion of capital assets;

(b) interest and dividends;

(c) periodic payments made under pension or retirement programs or insurance policies of any type;

(d) unemployment compensation benefits;

(e) workers' compensation benefits; and

(f) disability benefits.

(13) "Joint physical custody" means the child stays with each parent overnight for more than 30% of the year, and both parents contribute to the expenses of the child in addition to paying child support.

(14) "Medical expenses" means health and dental expenses and related insurance costs.

(15) "Obligee" means an individual, this state, another state, or another comparable jurisdiction to whom child support is owed or who is entitled to reimbursement of child support or public assistance.

(16) "Obligor" means any person owing a duty of support.

(17) "Office" means the Office of Recovery Services within the Department of Human Services.

(18) "Parent" includes a natural parent, or an adoptive parent.

(19) "Split custody" means that each parent has physical custody of at least one of the children.

(20) "State" includes any state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

(21) "Third party" means an agency or a person other than the biological or adoptive parent or a child who provides care, maintenance, and support to a child.

(22) "Tribunal" means the district court, the Department of Human Services, Office of Recovery Services, or court or administrative agency of any state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

(23) "Work-related child care costs" means reasonable child care costs for up to a full-time work week or training schedule as necessitated by the employment or training of a parent under Section 78-45-7.17.

(24) "Worksheets" means the forms used to aid in calculating the base child support award.

78-45-3. Duty of man.

(1) Every father shall support his child and every child shall be presumed to be in need of the support of his father. Every man shall support his wife when she is in need.

(2) Except as limited in a court order under Section 30-3-5, 30-4-3, or 78-45-7.15:

(a) The expenses incurred on behalf of a minor child for reasonable and necessary medical and dental expenses, and other necessities are chargeable upon the property of both parents, regardless of the marital status of the parents.

(b) Either or both parents may be sued by a creditor for the expenses described in Subsection (2)(a) incurred on behalf of minor children.

78-45-4. Duty of woman.

(1) Every woman shall support her child and every child shall be presumed to be in need of the support of his mother. Every woman shall support her husband when he is in need.

(2) Except as limited in a court order under Section 30-3-5, 30-4-3, or 78-45-7.15:

(a) The expenses incurred on behalf of a minor child for reasonable and necessary medical and dental expenses, and other necessities are chargeable upon the property of both parents, regardless of the marital status of the parents.

(b) Either or both parents may be sued by a creditor for the expenses described in Subsection (2)(a) incurred on behalf of minor children.

78-45-4.2. Natural or adoptive parent has primary obligation of support - Right of third party to recover support.

Nothing contained in this chapter shall act to relieve the natural parent or adoptive parent of the primary obligation of support. A third party has the same right to recover support from the natural or adoptive parent as a custodial parent.

78-45-4.4. Support follows the child.

(1) Obligations ordered for child support and medical expenses are for the use and benefit of the child and shall follow the child.

(2) Except in cases of joint physical custody and split custody as defined in Section 78-45-2, when physical custody changes from that assumed in the original order, the parent without physical custody of a child shall be required to pay the amount of support determined in accordance with Sections 78-45-7.7 and 78-45-7.15, without the need to modify the order for:

(a) the parent who has physical custody of the child;

(b) a relative to whom physical custody of the child has been voluntarily given; or

(c) the state when the child is residing outside of the home in the protective custody, temporary custody, or custody or care of the state or a state-licensed facility for at least 30 days.

78-45-4.5. Waiver and estoppel.

(1) Waiver and estoppel shall apply only to the custodial parent when there is no order already established by a tribunal if the custodial parent freely and voluntarily waives support specifically and in writing.

(2) Waiver and estoppel may not be applied against any third party or public entity that may provide support for the child.

(3) A noncustodial parent, or alleged biological father in a paternity action, may not rely on statements made by the custodial parent of the child concerning child support unless the statements are reduced to writing and signed by both parties.

78-45-5. Duty of obligor regardless of presence or residence of obligee.

An obligor present or resident in this state has the duty of support as defined in this act regardless of the presence or residence of the obligee.

78-45-7. Determination of amount of support - Rebuttable guidelines.

(1)(a) Prospective support shall be equal to the amount granted by prior court order unless there has been a substantial change of circumstance on the part of the obligor or obligee or adjustment under Subsection 78-45-7.2(6) has been made.

(b) 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, if the stipulated provision:

(i) is clear and unambiguous;

(ii) is self-executing;

(iii) provides for support which equals or exceeds the base child support award required by the guidelines; and

(iv) does not allow a decrease in support as a result of the obligor's voluntary reduction of income.

(2) If no prior court order exists, a substantial change in circumstances has occurred, or a petition to modify an order under Subsection 78-45-7.2(6) has been filed, the court determining the amount of prospective support shall require each party to file a proposed award of child support using the guidelines before an order awarding child support or modifying an existing award may be granted.

(3) If the court finds sufficient evidence to rebut the guidelines, the court shall establish support after considering all relevant factors, including but not limited to:

(a) the standard of living and situation of the parties;

(b) the relative wealth and income of the parties;

(c) the ability of the obligor to earn;

(d) the ability of the obligee to earn;

(e) the ability of an incapacitated adult child to earn, or other benefits received by the adult child or on the adult child's behalf including Supplemental Security Income;

(f) the needs of the obligee, the obligor, and the child;

(g) the ages of the parties; and

(h) the responsibilities of the obligor and the obligee for the support of others.

(4) When no prior court order exists, the court shall determine and assess all arrearages based upon the Uniform Child Support Guidelines described in this chapter.

78-45-7.1. Medical expenses of dependent children - Assigning responsibility for payment - Insurance coverage - Income withholding.

The court shall include the following in its order:

(1) a provision assigning responsibility for the payment of reasonable and necessary medical expenses for the dependent children;

(2) a provision requiring the purchase and maintenance of appropriate insurance for the medical expenses of dependent children, if coverage is or becomes available at a reasonable cost; and

(3) provisions for income withholding, in accordance with Title 62A, Chapter 11, Parts 4 and 5.

78-45-7.2. Application of guidelines - Rebuttal.

(1) The guidelines apply to any judicial or administrative order establishing or modifying an award of child support entered on or after July 1, 1989.

(2)(a) The child support guidelines shall be applied as a rebuttable presumption in establishing or modifying the amount of temporary or permanent child support.

(b) The rebuttable presumption means the provisions and considerations required by the guidelines, the award amounts resulting from the application of the guidelines, and the use of worksheets consistent with these guidelines are presumed to be correct, unless rebutted under the provisions of this section.

(3) A written finding or specific finding on the record supporting the conclusion that complying with a provision of the guidelines or ordering an award amount resulting from use of the guidelines would be unjust, inappropriate, or not in the best interest of a child in a particular case is sufficient to rebut the presumption in that case. If an order rebuts the presumption through findings, it is considered a deviated order.

(4) The following shall be considered deviations from the guidelines, if:

(a) the order includes a written finding that it is a nonguidelines order;

(b) the guidelines worksheet has the box checked for a deviation and has an explanation as to the reason; or

(c) the deviation was made because there were more children than provided for in the guidelines table.

(5) If the amount in the order and the amount on the guidelines worksheet differ, but the difference is less than \$10, the order shall not be considered deviated and the incomes listed on the worksheet may be used in adjusting support for emancipation.

(6)(a) Natural or adoptive children of either parent who live in the home of that parent and are not children in common to both parties may at the option of either party be taken into account under the guidelines in setting or modifying a child support award, as provided in Subsection (7). Credit may not be given if:

(i) by giving credit to the obligor, children for whom a prior support order exists would have their child support reduced; or

(ii) by giving credit to the obligee for a present family, the obligation of the obligor would increase.

(b) Additional worksheets shall be prepared that compute the obligations of the respective parents for the additional children. The obligations shall then be subtracted from the appropriate parent's income before determining the award in the instant case.

(7) In a proceeding to modify an existing award, consideration of natural or adoptive children born after entry of the order and who are not in common to both parties may be applied to mitigate an increase in the award but may not be applied:

(a) for the benefit of the obligee if the credit would increase the support obligation of the obligor from the most recent order; or

(b) for the benefit of the obligor if the amount of support received by the obligee would be decreased from the most recent order.

(8)(a) If a child support order has not been issued or modified within the previous three years, a parent, legal guardian, or the office may petition the court to adjust the amount of a child support order.

(b) Upon receiving a petition under Subsection (8)(a), the court shall, taking into account the best interests of the child, determine whether there is a difference between the amount ordered and the amount that would be required under the guidelines. If there is a difference of 10% or more and the difference is not of a temporary nature, the court shall adjust the amount to that which is provided for in the guidelines.

(c) A showing of a substantial change in circumstances is not necessary for an adjustment under Subsection (8)(b).

(9)(a) A parent, legal guardian, or the office may at any time petition the court to adjust the amount of a child support order if there has been a substantial change in circumstances.

(b) For purposes of Subsection (9)(a), a substantial change in circumstances may include:

- (i) material changes in custody;
 - (ii) material changes in the relative wealth or assets of the parties;
 - (iii) material changes of 30% or more in the income of a parent;
 - (iv) material changes in the ability of a parent to earn;
 - (v) material changes in the medical needs of the child; and
 - (vi) material changes in the legal responsibilities of either parent for the support of others.
- (c) Upon receiving a petition under Subsection (9)(a), the court shall, taking into account the best interests of the child, determine whether a substantial change has occurred. If it has, the court shall then determine whether the change results in a difference of 15% or more between the amount of child support ordered and the amount that would be required under the guidelines. If there is such a difference and the difference is not of a temporary nature, the court shall adjust the amount of child support ordered to that which is provided for in the guidelines.
- (10) Notice of the opportunity to adjust a support order under Subsections (8) and (9) shall be included in each child support order issued or modified after July 1, 1997.

78-45-7.3. Procedure - Documentation - Stipulation.

- (1) In any matter in which child support is ordered, the moving party shall submit:
- (a) a completed child support worksheet;
 - (b) the financial verification required by Subsection 78-45-7.5(5);
 - (c) a written statement indicating whether or not the amount of child support requested is consistent with the guidelines; and
 - (d) the information required under Subsection (3).
- (2)(a) If the documentation of income required under Subsection (1) is not available, a verified representation of the other party's income by the moving party, based on the best evidence available, may be submitted.
- (b) The evidence shall be in affidavit form and may only be offered after a copy has been provided to the other party in accordance with Utah Rules of Civil Procedure or Title 63, Chapter 46b, Administrative Procedures Act, in an administrative proceeding.
- (3) Upon the entry of an order in a proceeding to establish paternity or to establish, modify, or enforce a support order, each party shall file identifying information and shall update that information as changes occur with the court that conducted the proceeding.

(a) The required identifying information shall include the person's social security number, driver's license number, residential and mailing addresses, telephone numbers, the name, address and telephone number of employers, and any other data required by the United States Secretary of Health and Human Services.

(b) Attorneys representing the office in child support services cases are not required to file the identifying information required by Subsection (3)(a).

(4) A stipulated amount for child support or combined child support and alimony is adequate under the guidelines if the stipulated child support amount or combined amount equals or exceeds the base child support award required by the guidelines.

78-45-7.4. Obligation - Adjusted gross income used.

Adjusted gross income shall be used in calculating each parent's share of the base combined child support obligation. Only income of the natural or adoptive parents of the child may be used to determine the award under these guidelines.

78-45-7.5. Determination of gross income - Imputed income.

(1) As used in the guidelines, "gross income" includes:

(a) prospective income from any source, including nonearned sources, except under Subsection (3); and

(b) income from salaries, wages, commissions, royalties, bonuses, rents, gifts from anyone, prizes, dividends, severance pay, pensions, interest, trust income, alimony from previous marriages, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment compensation, income replacement disability insurance benefits, and payments from "nonmeans-tested" government programs.

(2) Income from earned income sources is limited to the equivalent of one full-time 40-hour job. However, if and only if during the time prior to the original support order, the parent normally and consistently worked more than 40 hours at his job, the court may consider this extra time as a pattern in calculating the parent's ability to provide child support.

(3) Specifically excluded from gross income are:

(a) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program;

(b) benefits received under a housing subsidy program, the Job Training Partnership Act, Supplemental Security Income, Social Security Disability Insurance, Medicaid, Food Stamps, or General Assistance; and

(c) other similar means-tested welfare benefits received by a parent.

(4)(a) Gross income from self-employment or operation of a business shall be calculated by subtracting necessary expenses required for self-employment or business operation from gross receipts. The income and expenses from self-employment or operation of a business shall be reviewed to determine an appropriate level of gross income available to the parent to satisfy a child support award. Only those expenses necessary to allow the business to operate at a reasonable level may be deducted from gross receipts.

(b) Gross income determined under this subsection may differ from the amount of business income determined for tax purposes.

(5)(a) When possible, gross income should first be computed on an annual basis and then recalculated to determine the average gross monthly income.

(b) Each parent shall provide verification of current income. Each parent shall provide year-to-date pay stubs or employer statements and complete copies of tax returns from at least the most recent year unless the court finds the verification is not reasonably available. Verification of income from records maintained by the Department of Workforce Services may be substituted for pay stubs, employer statements, and income tax returns.

(c) Historical and current earnings shall be used to determine whether an underemployment or overemployment situation exists.

(6) Gross income includes income imputed to the parent under Subsection (7).

(7)(a) Income may not be imputed to a parent unless the parent stipulates to the amount imputed, the party defaults, or, in contested cases, a hearing is held and a finding made that the parent is voluntarily unemployed or underemployed.

(b) If income is imputed to a parent, the income shall be based upon employment potential and probable earnings as derived from work history, occupation qualifications, and prevailing earnings for persons of similar backgrounds in the community, or the median earning for persons in the same occupation in the same geographical area as found in the statistics maintained by the Bureau of Labor Statistics.

(c) If a parent has no recent work history or their occupation is unknown, income shall be imputed at least at the federal minimum wage for a 40-hour work week. To impute a greater income, the judge in a judicial proceeding or the presiding officer in an administrative proceeding shall enter specific findings of fact as to the evidentiary basis for the imputation.

(d) Income may not be imputed if any of the following conditions exist:

(i) the reasonable costs of child care for the parents' minor children approach or equal the amount of income the custodial parent can earn;

(ii) a parent is physically or mentally disabled to the extent he cannot earn minimum wage;

(iii) a parent is engaged in career or occupational training to establish basic job skills; or

(iv) unusual emotional or physical needs of a child require the custodial parent's presence in the home.

(8)(a) Gross income may not include the earnings of a minor child who is the subject of a child support award nor benefits to a minor child in the child's own right such as Supplemental Security Income.

(b) Social Security benefits received by a child due to the earnings of a parent shall be credited as child support to the parent upon whose earning record it is based, by crediting the amount against the potential obligation of that parent.

Other unearned income of a child may be considered as income to a parent depending upon the circumstances of each case.

78-45-7.7. Calculation of obligations.

(1) Each parent's child support obligation shall be established in proportion to their adjusted gross incomes, unless the low income table is applicable. Except during periods of court-ordered parent-time as set forth in Section 78-45-7.11, the parents are obligated to pay their proportionate shares of the base combined child support obligation. If physical custody of the child changes from that assumed in the original order, modification of the order is not necessary, even if only one parent is specifically ordered to pay in the order.

(2) Except in cases of joint physical custody and split custody as defined in Section 78-45-2 and in cases where the obligor's adjusted gross income is \$1,050 or less monthly, the base child support award shall be determined as follows:

(a) combine the adjusted gross incomes of the parents and determine the base combined child support obligation using the base combined child support obligation table; and

(b) calculate each parent's proportionate share of the base combined child support obligation by multiplying the combined child support obligation by each parent's percentage of combined adjusted gross income.

(3) In the case of an incapacitated adult child, any amount that the incapacitated adult child can contribute to his or her support may be considered in the determination of child support and may be used to justify a reduction in the amount of support ordered, except that in the case of orders involving multiple children, the reduction shall not be greater than the effect of reducing the total number of children by one in the child support table calculation.

(4) In cases where the monthly adjusted gross income of the obligor is between \$650 and \$1,050, the base child support award shall be the lesser of the amount calculated in accordance with Subsection (2) and the amount calculated using the low income table. If the income and number of children is found in an area of the low income table in which no amount is shown, the base combined child support obligation table is to be used.

(5) The base combined child support obligation table provides combined child support obligations for up to six children. For more than six children, additional amounts may be added to the base child support obligation shown. Unless rebutted by Subsection 78-45-7.2(3), the amount ordered shall not be less than the amount which would be ordered for up to six children.

(6) If the monthly adjusted gross income of the obligor is \$649 or less, the tribunal shall determine the amount of the child support obligation on a case-by-case basis, but the base child support award shall not be less than \$20.

(7) The amount shown on the table is the support amount for the total number of children, not an amount per child.

78-45-7.8. Split custody - Obligation calculations.

In cases of split custody, the base child support award shall be determined as follows:

(1) Combine the adjusted gross incomes of the parents and determine the base combined child support obligation using the base combined child support obligation table. Allocate a portion of the calculated amount between the parents in proportion to the number of children for whom each parent has physical custody. The amounts so calculated are a tentative base child support obligation due each parent from the other parent for support of the child or children for whom each parent has physical custody.

(2) Multiply the tentative base child support obligation due each parent by the percentage that the other parent's adjusted gross income bears to the total combined adjusted gross income of both parents.

(3) Subtract the lesser amount in Subsection (2) from the larger amount to determine the base child support award to be paid by the parent with the greater financial obligation.

78-45-7.9. Joint physical custody - Obligation calculations.

In cases of joint physical custody, the base child support award shall be determined as follows:

(1) Combine the adjusted gross incomes of the parents and determine the base combined child support obligation using the base combined child support obligation table.

(2) Calculate each parent's proportionate share of the base combined child support obligation by multiplying the base combined child support obligation by each parent's percentage of combined adjusted gross income. The amounts so calculated are the base child support obligation due from each parent for support of the children.

(3) If the obligor's time with the children exceeds 110 overnights, the obligation shall be calculated further as follows:

(a) if the amount of time to be spent with the children is between 110 and 131 overnights, multiply the number of overnights over 110 by .0027, then multiply the result by the base combined child support obligation, and then subtract the result from the obligor's payment as determined by Subsection (2) to arrive at the obligor's payment; or

(b) if the amount of time to be spent with the children is 131 overnights or more, multiply the number of overnights over 130 by .0084, then multiply the result by the base combined child support obligation, and then subtract the result from the obligor's payment as determined in Subsection (3)(a) to arrive at the obligor's payment.

78-45-7.10. Adjustment when child becomes emancipated.

(1) When a child becomes 18 years of age, or has graduated from high school during the child's normal and expected year of graduation, whichever occurs later, the base child support award is automatically adjusted to reflect the base combined child support obligation shown in the table for the remaining number of children due child support, unless otherwise provided in the child support order.

(2) The award may not be reduced by a per child amount derived from the base child support award originally ordered.

(3) If the incomes of the parties are not specified in the last order or the worksheets, the information regarding the incomes is not consistent, or the order deviates from the guidelines, automatic adjustment of the order does not apply and the order will continue until modified by the issuing tribunal. If the order is deviated and the parties subsequently

obtain a judicial order that adjusts the support back to the date of the emancipation of the child, the Office of Recovery Services may not be required to repay any difference in the support collected during the interim.

78-45-7.11. Reduction for extended parent-time.

(1) The base child support award shall be:

(a) reduced by 50% for each child for time periods during which the child is with the noncustodial parent by order of the court or by written agreement of the parties for at least 25 of any 30 consecutive days of extended parent-time; or

(b) 25% for each child for time periods during which the child is with the noncustodial parent by order of the court, or by written agreement of the parties for at least 12 of any 30 consecutive days of extended parent-time.

(2) If the dependent child is a client of cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program, any agreement by the parties for reduction of child support during extended parent-time shall be approved by the administrative agency.

(3) Normal parent-time and holiday visits to the custodial parent shall not be considered extended parent-time.

(4) For cases receiving IV-D child support services in accordance with Title 62A, Chapter 11, Parts 1, 3, and 4, to receive the adjustment the noncustodial parent shall provide written documentation of the extended parent-time schedule, including the beginning and ending dates, to the Office of Recovery Services in the form of either a court order or a voluntary written agreement between the parties.

(5) If the noncustodial parent complies with Subsection (4), owes no past-due support, and pays the full, unadjusted amount of current child support due for the month of scheduled extended parent-time and the following month, the Office of Recovery Services shall refund the difference from the child support due to the custodial parent or the state, between the full amount of current child support received during the month of extended parent-time and the adjusted amount of current child support due:

(a) from current support received in the month following the month of scheduled extended parent-time; or

(b) from current support received in the month following the month written documentation of the scheduled extended parent-time is provided to the office, whichever occurs later.

(6) If the noncustodial parent complies with Subsection (4), owes past-due support, and pays the full, unadjusted amount of current child support due for the month of scheduled extended parent-time, the Office of Recovery Services shall apply the difference, from the child support due to the custodial parent or the state, between the full amount of current child support received during the month of extended parent-time and the adjusted amount of current child support due, to the past-due support obligation in the case.

(7) For cases not receiving IV-D child support services in accordance with Title 62A, Chapter 11, Parts 1, 3, and 4, any potential adjustment of the support payment during the month of extended visitation or any refund that may be due to the noncustodial parent from the custodial parent, shall be resolved between the parents or through the court without involvement by the Office of Recovery Services.

(8) For purposes of this section the per child amount to which the abatement applies shall be calculated by dividing the base child support award by the number of children included in the award.

(9) The reduction in this section does not apply to parents with joint physical custody obligations calculated in accordance with Section 78-45-7.9.

78-45-7.12. Income in excess of tables.

If the combined adjusted gross income exceeds the highest level specified in the table, an appropriate and just child support amount shall be ordered on a case-by-case basis, but the amount ordered may not be less than the highest level specified in the table for the number of children due support.

78-45-7.13. Advisory committee - Membership and functions.

(1) On or before March 1, 2007 and then on or before March 1 of every fourth year subsequently, the governor shall appoint an advisory committee consisting of:

- (a) one representative recommended by the Office of Recovery Services;
- (b) one representative recommended by the Judicial Council;
- (c) two representatives recommended by the Utah State Bar Association;
- (d) two representatives of noncustodial parents;
- (e) two representatives of custodial parents;
- (f) one representative with expertise in economics; and
- (g) two representatives from diverse interests related to child support issues, as the governor may consider appropriate. However, none of the individuals appointed under this subsection may be members of the Utah State Bar Association.

(2) The term of the committee members expires one month after the report of the committee is submitted to the Legislature under Subsection (4).

(3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(4)(a) The advisory committee shall review the child support guidelines to ensure their application results in the determination of appropriate child support award amounts.

(b) The committee shall report to the Legislative Judiciary Interim Committee on or before October 1 in 2007 and then on or before October 1 of every fourth year subsequently.

(c) The committee's report shall include recommendations of the majority of the committee, as well as specific recommendations of individual members of the committee.

(5)(a)(i) Members who are not government employees shall receive no compensation or benefits for their services, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) Members may decline to receive per diem and expenses for their service.

(b)(i) State government officer and employee members who do not receive salary, per diem, or expenses from their agency for their service may receive per diem and expenses incurred in the performance of their official duties from the committee at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) State government officer and employee members may decline to receive per diem and expenses for their service.

(6) Staff for the committee shall be provided from the existing budgets of the Department of Human Services.

(7) The committee ceases to exist no later than November 1, 2003 and then on November 1 of every fourth year subsequently.

(8) Any committee appointed by the governor prior to October 1, 2003 ceases to exist on November 1, 2003.

78-45-7.14. Base combined child support obligation table and low income table.

The following includes the Base Combined Child Support Obligation Table and the Low Income Table:

BASE COMBINED CHILD SUPPORT OBLIGATION TABLE

(Both Parents)

Monthly Combined

Adj. Gross Income Number of Children

1 2 3 4 5 6

From To

650 - 675 99 184 191 198 200 201

676 - 700 103 190 198 205 207 209

701 - 725 106 197 205 212 214 216

726 - 750 110 204 212 220 221 223

751 - 775 113 211 219 227 229 231

776 - 800 117 218 226 234 236 238

801 - 825 121 224 243 261 263 265

826 - 850 124 231 253 275 277 279

851 - 875 128 238 263 289 291 294

876 - 900 132 245 274 303 305 308

901 - 925 135 251 284 316 319 322

926 - 950 139 258 294 330 333 336

951 - 975 143 265 305 344 347 350

976 - 1,000 146 272 315 358 361 364

1,001 - 1,050 154 285 335 385 389 393

1,051 - 1,100 161 299 356 413 417 421

1,101 - 1,150 168 313 377 441 444 449

1,151 - 1,200 176 326 387 449 454 460

1,201 - 1,250 183 340 403 465 475 484

1,251 - 1,300 190 353 418 482 496 508

1,301 - 1,350 198 367 433 499 516 532

1,351 - 1,400 205 381 448 515 537 556

1,401 - 1,450 212 394 463 532 558 580

1,451 - 1,500 220 408 478 549 579 605

1,501 - 1,550 227 421 493 565 600 629

1,551 - 1,600 234 435 509 582 620 653

1,601 - 1,650 242 449 524 599 641 677

1,651 - 1,700 249 462 539 615 662 701

1,701 - 1,750 256 476 554 632 683 725

1,751 - 1,800 264 489 569 649 704 749

1,801 - 1,850 271 503 584 664 723 771

1,851 - 1,900 278 517 597 677 736 786

1,901 - 1,950 286 530 610 690 750 800

1,951 - 2,000 293 544 622 700 752 813

2,001 - 2,100 308 571 643 716 779 833

2,101 - 2,200 319 592 666 741 807 862

2,201 - 2,300 328 608 687 766 835 891

2,301 - 2,400 336 625 708 791 862 921

2,401 - 2,500 345 641 725 809 882 942

2,501 - 2,600 354 658 746 834 909 972

2,601 - 2,700 362 674 767 859 937 1,001

2,701 - 2,800 371 691 788 885 964 1,031

2,801 - 2,900 380 707 809 910 992 1,060

2,901 - 3,000 388 724 830 936 1,020 1,090

3,001 - 3,101 397 740 851 962 1,048 1,120

3,101 - 3,200 406 756 872 987 1,076 1,149

3,201 - 3,300 414 773 893 1,013 1,103 1,179

3,301 - 3,400 423 789 914 1,039 1,131 1,208

3,401 - 3,500 431 804 934 1,064 1,159 1,238

3,501 - 3,600 438 817 953 1,090 1,187 1,268

3,601 - 3,700 444 830 973 1,116 1,215 1,297
3,701 - 3,800 451 843 992 1,141 1,243 1,327
3,801 - 3,900 458 856 1,012 1,167 1,270 1,356
3,901 - 4,000 465 870 1,031 1,192 1,297 1,386
4,001 - 4,100 472 883 1,050 1,217 1,325 1,415
4,101 - 4,200 479 896 1,069 1,242 1,352 1,444
4,201 - 4,300 486 909 1,088 1,267 1,379 1,474
4,301 - 4,400 493 923 1,107 1,292 1,407 1,503
4,401 - 4,500 499 936 1,131 1,326 1,443 1,541
4,501 - 4,600 506 949 1,150 1,350 1,470 1,570
4,601 - 4,700 513 962 1,169 1,375 1,498 1,600
4,701 - 4,800 520 975 1,188 1,400 1,525 1,629
4,801 - 4,900 527 989 1,207 1,425 1,552 1,658
4,901 - 5,000 534 1,002 1,226 1,450 1,580 1,687
5,001 - 5,100 541 1,015 1,245 1,475 1,607 1,717
5,101 - 5,200 547 1,028 1,264 1,500 1,634 1,746
5,201 - 5,300 554 1,042 1,282 1,522 1,658 1,772
5,301 - 5,400 561 1,055 1,300 1,544 1,682 1,797
5,401 - 5,500 568 1,068 1,317 1,566 1,706 1,823
5,501 - 5,600 575 1,081 1,335 1,588 1,730 1,848
5,601 - 5,700 582 1,093 1,351 1,610 1,754 1,874
5,701 - 5,800 586 1,103 1,367 1,632 1,778 1,899
5,801 - 5,900 591 1,112 1,383 1,653 1,802 1,925

5,901 - 6,000 596 1,122 1,398 1,675 1,826 1,950

6,001 - 6,100 601 1,131 1,414 1,697 1,850 1,976

6,101 - 6,200 605 1,141 1,430 1,719 1,874 2,001

6,201 - 6,300 610 1,150 1,445 1,740 1,897 2,026

6,301 - 6,400 615 1,159 1,461 1,762 1,921 2,052

6,401 - 6,500 620 1,169 1,480 1,791 1,951 2,084

6,501 - 6,600 624 1,178 1,495 1,812 1,975 2,109

6,601 - 6,700 629 1,188 1,511 1,834 1,998 2,134

6,701 - 6,800 629 1,188 1,511 1,834 1,998 2,134

6,801 - 6,900 673 1,188 1,511 1,834 1,998 2,134

6,901 - 7,000 680 1,188 1,511 1,834 1,998 2,134

7,001 - 7,100 687 1,188 1,511 1,834 1,998 2,134

7,101 - 7,200 694 1,188 1,511 1,834 1,998 2,134

7,201 - 7,300 701 1,188 1,520 1,834 1,998 2,134

7,301 - 7,400 706 1,189 1,531 1,834 1,998 2,134

7,401 - 7,500 710 1,197 1,541 1,834 1,998 2,134

7,501 - 7,600 715 1,205 1,551 1,834 1,998 2,134

7,601 - 7,700 719 1,213 1,562 1,834 1,998 2,134

7,701 - 7,800 723 1,220 1,572 1,834 1,998 2,134

7,801 - 7,900 728 1,228 1,582 1,834 1,998 2,137

7,901 - 8,000 732 1,236 1,592 1,834 2,000 2,150

8,001 - 8,100 737 1,244 1,603 1,834 2,013 2,164

8,101 - 8,200 741 1,252 1,613 1,841 2,026 2,178

8,201 - 8,300	746	1,259	1,623	1,853	2,039	2,192
8,301 - 8,400	750	1,267	1,633	1,864	2,052	2,206
8,401 - 8,500	755	1,275	1,644	1,876	2,064	2,220
8,501 - 8,600	759	1,283	1,654	1,887	2,077	2,234
8,601 - 8,700	763	1,291	1,664	1,899	2,090	2,247
8,701 - 8,800	768	1,298	1,675	1,911	2,103	2,261
8,801 - 8,900	772	1,306	1,685	1,922	2,116	2,275
8,901 - 9,000	777	1,314	1,695	1,934	2,129	2,289
9,001 - 9,100	781	1,322	1,705	1,945	2,141	2,303
9,101 - 9,200	786	1,330	1,716	1,957	2,154	2,317
9,201 - 9,300	790	1,337	1,726	1,969	2,167	2,330
9,301 - 9,400	795	1,345	1,736	1,980	2,180	2,344
9,401 - 9,500	799	1,353	1,747	1,992	2,193	2,358
9,501 - 9,600	803	1,361	1,757	2,003	2,206	2,372
9,601 - 9,700	808	1,369	1,767	2,015	2,218	2,386
9,701 - 9,800	812	1,376	1,777	2,027	2,231	2,400
9,801 - 9,900	817	1,384	1,788	2,038	2,244	2,414
9,901 - 10,000	821	1,392	1,798	2,050	2,257	2,427
10,001 - 10,100	826	1,400	1,808	2,061	2,270	2,441

LOW INCOME TABLE

(Obligor Parent Only)

Monthly Adj.

Gross Income Number of Children

1 2 3 4 5 6

From To

650 - 675 23 23 23 23 24 24

676 - 700 45 46 46 47 47 48

701 - 725 68 68 69 70 71 71

726 - 750 90 91 92 93 94 95

751 - 775 113 114 115 116 118 119

776 - 800 137 138 140 141 143

801 - 825 159 161 163 165 166

826 - 850 182 184 186 188 190

851 - 875 205 207 209 212 214

876 - 900 228 230 233 235 238

901 - 925 250 253 256 259 261

926 - 950 276 279 282 285

951 - 975 299 302 306 309

976 - 1,000 326 329 333

1,001 - 1,050 372 376 380

78-45-7.15. Medical expenses.

(1) The court shall order that insurance for the medical expenses of the minor children be provided by a parent if it is available at a reasonable cost.

(2) In determining which parent shall be ordered to maintain insurance for medical expenses, the court or administrative agency may consider the:

(a) reasonableness of the cost;

(b) availability of a group insurance policy;

(c) coverage of the policy; and

(d) preference of the custodial parent.

(3) The order shall require each parent to share equally the out-of-pocket costs of the premium actually paid by a parent for the children's portion of insurance.

(4) The parent who provides the insurance coverage may receive credit against the base child support award or recover the other parent's share of the children's portion of the premium. In cases in which the parent does not have insurance but another member of the parent's household provides insurance coverage for the children, the parent may receive credit against the base child support award or recover the other parent's share of the children's portion of the premium.

(5) The children's portion of the premium is a per capita share of the premium actually paid. The premium expense for the children shall be calculated by dividing the premium amount by the number of persons covered under the policy and multiplying the result by the number of children in the instant case.

(6) The order shall require each parent to share equally all reasonable and necessary uninsured medical expenses, including deductibles and copayments, incurred for the dependent children.

(7) The parent ordered to maintain insurance shall provide verification of coverage to the other parent, or to the Office of Recovery Services under Title IV of the Social Security Act, 42 U.S.C. § 601 et seq., upon initial enrollment of the dependent children, and thereafter on or before January 2 of each calendar year. The parent shall notify the other parent, or the Office of Recovery Services under Title IV of the Social Security Act, 42 U.S.C. § 601 et seq., of any change of insurance carrier, premium, or benefits within 30 calendar days of the date he first knew or should have known of the change.

(8) A parent who incurs medical expenses shall provide written verification of the cost and payment of medical expenses to the other parent within 30 days of payment.

(9) In addition to any other sanctions provided by the court, a parent incurring medical expenses may be denied the right to receive credit for the expenses or to recover the other parent's share of the expenses if that parent fails to comply with Subsections (7) and (8).

78-45-7.16. Child care expenses - Expenses not incurred.

(1) The child support order shall require that each parent share equally the reasonable work-related child care expenses of the parents.

(2)(a) If an actual expense for child care is incurred, a parent shall begin paying his share on a monthly basis immediately upon presentation of proof of the child care expense, but if the child care expense ceases to be incurred, that parent may suspend making monthly payment of that expense while it is not being incurred, without obtaining a modification of the child support order.

(b)(i) In the absence of a court order to the contrary, a parent who incurs child care expense shall provide written verification of the cost and identity of a child care provider to the other parent upon initial engagement of a provider and thereafter on the request of the other parent.

(ii) In the absence of a court order to the contrary, the parent shall notify the other parent of any change of child care provider or the monthly expense of child care within 30 calendar days of the date of the change.

(3) In addition to any other sanctions provided by the court, a parent incurring child care expenses may be denied the right to receive credit for the expenses or to recover the other parent's share of the expenses if the parent incurring the expenses fails to comply with Subsection (2)(b).

78-45-7.17. Child care costs.

(1) The need to include child care costs in the child support order is presumed, if the custodial parent or the noncustodial parent, during extended parent-time, is working and actually incurring the child care costs.

(2) The need to include child care costs is not presumed, but may be awarded on a case-by-case basis, if the costs are related to the career or occupational training of the custodial parent, or if otherwise ordered by the court in the interest of justice.

78-45-7.18. Limitation on amount of support ordered.

(1) There is no maximum limit on the base child support award that may be ordered using the base combined child support obligation table, using the low income table, or awarding medical expenses except under Subsection (2).

(2) If amounts under either table as provided in Section 78-45-7.14 in combination with the award of medical expenses exceeds 50% of the obligor's adjusted gross income, or by adding the child care costs, total child support would exceed 50% of the obligor's adjusted gross income, the presumption under Section 78-45-7.17 is rebutted.

78-45-7.19. Determination of parental liability.

(1) The district court or administrative agency may issue an order determining the amount of a parent's liability for medical expenses of a dependent child when the parent:

(a) is required by a prior court or administrative order to:

(i) share those expenses with the other parent of the dependent child; or

(ii) obtain insurance for medical expenses but fails to do so; or

(b) receives direct payment from an insurer under insurance coverage obtained after the prior court or administrative order was issued.

(2) If the prior court or administrative order does not specify what proportions of the expenses are to be shared, the district court may determine the amount of liability as may be reasonable and necessary.

(3) This section applies to an order without regard to when it was issued.

78-45-9. Enforcement of right of support.

(1)(a) The obligee may enforce his right of support against the obligor. The office may proceed pursuant to this chapter or any other applicable statute on behalf of:

(i) the Department of Human Services;

(ii) any other department or agency of this state that provides public assistance, as defined by Subsection 62A-11-303(3), to enforce the right to recover public assistance; or

(iii) the obligee, to enforce the obligee's right of support against the obligor.

(b) Whenever any court action is commenced by the office to enforce payment of the obligor's support obligation, the attorney general or the county attorney of the county of residence of the obligee shall represent the office.

(2)(a) A person may not commence an action, file a pleading, or submit a written stipulation to the court, without complying with Subsection (2)(b), if the purpose or effect of the action, pleading, or stipulation is to:

(i) establish paternity;

(ii) establish or modify a support obligation;

(iii) change the court-ordered manner of payment of support;

(iv) recover support due or owing; or

(v) appeal issues regarding child support laws.

(b)(i) When taking an action described in Subsection (2)(a), a person must file an affidavit with the court at the time the action is commenced, the pleading is filed, or the stipulation is submitted stating whether child support services have been or are being provided under Part IV of the Social Security Act, 42 U.S.C. § 601 et seq., on behalf of a child who is a subject of the action, pleading, or stipulation.

(ii) If child support services have been or are being provided, under Part IV of the Social Security Act, 42 U.S.C. § 601 et seq., the person shall mail a copy of the affidavit and a copy of the pleading or stipulation to the Office of the Attorney General, Child Support Division.

(iii) If notice is not given in accordance with this Subsection (2), the office is not bound by any decision, judgment, agreement, or compromise rendered in the action. For purposes of appeals, service must be made on the Office of the Director for the Office of Recovery Services.

(c) If IV-D services have been or are being provided, that person shall join the office as a party to the action, or mail or deliver a written request to the Office of the Attorney General, Child Support Division asking the office to join as a party

to the action. A copy of that request, along with proof of service, shall be filed with the court. The office shall be represented as provided in Subsection (1)(b).

(3) Neither the attorney general nor the county attorney represents or has an attorney-client relationship with the obligee or the obligor in carrying out the duties under this chapter.

78-45-9.3. Payment under child support order - Judgment.

(1) All monthly payments of child support shall be due on the 1st day of each month for purposes of child support services pursuant to Title 62A, Chapter 11, Part 3, income withholding services pursuant to Part 4, and income withholding procedures pursuant to Part 5.

(2) For purposes of child support services and income withholding pursuant to Title 62A, Chapter 11, Part 3 and Part 4, child support is not considered past due until the 1st day of the following month. For purposes other than those specified in Subsection (1) support shall be payable 1/2 by the 5th day of each month and 1/2 by the 20th day of that month, unless the order or decree provides for a different time for payment.

(3) Each payment or installment of child or spousal support under any child support order, as defined by Section 78-45-2, is, on and after the date it is due:

(a) a judgment with the same attributes and effect of any judgment of a district court, except as provided in Subsection (4);

(b) entitled, as a judgment, to full faith and credit in this and in any other jurisdiction; and

(c) not subject to retroactive modification by this or any other jurisdiction, except as provided in Subsection (4).

(4) A child or spousal support payment under a child support order may be modified with respect to any period during which a modification is pending, but only from the date of service of the pleading on the obligee, if the obligor is the petitioner, or on the obligor, if the obligee is the petitioner. If the tribunal orders that the support should be modified, the effective date of the modification shall be the month following service on the parent whose support is affected. Once the tribunal determines that a modification is appropriate, the tribunal shall order a judgment to be entered for any difference in the original order and the modified amount for the period from the service of the pleading until the final order of modification is entered.

(5) For purposes of this section, "jurisdiction" means a state or political subdivision, a territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

(6) The judgment provided for in Subsection (3)(a), to be effective and enforceable as a lien against the real property interest of any third party relying on the public record, shall be docketed in the district court in accordance with Sections 78-22-1 and 62A-11-312.5.

Note: Laws may have changed since our last update. For the latest information on these divorce laws, speak to a local divorce lawyer in the state.