
Utah Marriage & Divorce Laws

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**UTAH
MARRIAGE
AND
DIVORCE
LAWS**

Steve Averett
2008 Edition

For Suz and family

Introduction

This manual contains a brief explanation of Utah marriage and divorce laws, as well as sample Utah divorce forms. Some of these forms are patterned after forms I used at Utah Legal Services, Inc., and in Utah's Fourth District Court. Credit is given to both entities for their contributions.

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Chapter 1 Marriage, Divorce, and Annulment

Marriage

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

Marriage is discussed in Utah Code Annotated §§ 30-1-1 to 30-1-39. Only the union between a man and a woman is recognized as a marriage in Utah.² Marriages are generally prohibited and void between close relatives (i.e., marriages between parents and children, ancestors and descendants, brothers and sisters, uncles and nieces, aunts and nephews, first cousins, and people related within but not including the fifth degree of consanguinity).³ Marriage is also prohibited and void: (1) if one spouse is married to someone else, (2) if the person being married is under the age of 18 (unless they receive parental consent), (3) if the person being married is age 15 (unless they receive judicial consent), or (4) if the people being married are of the same sex.⁴

Foreign marriages are valid even if they would be prohibited and void under Utah law, so long as it does not result in a same-sex marriage, a bigamous marriage, a marriage to a person under the age of 16 (without judicial consent), or a marriage between people related within and including the third degree of consanguinity.⁵

The parties must receive a marriage license prior to their marriage.⁶ The marriage license may only be used within the state of Utah and must be used within 30 days of the date it was issued.⁷

Marriages may be solemnized by ministers, the governor, mayors, judges, etc.⁸ Within 30 days after a marriage is solemnized, the person who solemnized it is to return the license and marriage certificate to the county clerk, who is to file and record it.⁹

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

¹ See generally Judith Wallerstein, Julia Lewis & Sandy Blakeslee, The Unexpected Legacy of Divorce: a 25 Year Landmark Study (Hyperion 2000).

² Utah Code Ann. § 30-1-4.1 (Lexis 2007).

³ Utah Code Ann. § 30-1-1 (Lexis 2007).

⁴ Utah Code Ann. §§ 30-1-2, 30-1-9 (Lexis 2007).

⁵ Utah Code Ann. § 30-1-4 (Lexis 2007).

⁶ See Utah Code Ann. § 30-1-7 (Lexis 2007).

⁷ Utah Code Ann. § 30-1-7 (Lexis 2007).

⁸ Utah Code Ann. § 30-1-6 (Lexis 2007).

⁹ Utah Code Ann. §§ 30-1-11 to -12 (Lexis 2007).

themselves out as and have acquired a uniform and general reputation as husband and wife.”¹⁰ In the case of Hansen v. Hansen, 958 P.2d 931 (Utah Ct. App. 1998), the court found that the elements necessary to establish a common law marriage must be proven by preponderance of the evidence. In that case no common law marriage was established, although the parties had been previously married, divorced, and then began cohabiting, again. The court found that the wife had not consented to the marriage and that the couple had not consistently held themselves out as husband and wife and had not acquired a uniform and general reputation as husband and wife.

Annulment

If a marriage fails, it can be dissolved by annulment or divorce. A marriage may be annulled if it is prohibited or void or if common law grounds exist (e.g., fraud in the inducement of marriage).¹¹ A party that sues for annulment can request a divorce as alternative relief.¹²

Divorce

The grounds for divorce are impotency, adultery, desertion for a year, failure to provide support, drunkenness, felony conviction, cruel treatment, irreconcilable differences, incurable insanity, or separation of three years under a decree of separate maintenance.¹³ Either the husband or the wife must be a county resident for 3 months before filing the divorce action.¹⁴

At the beginning of a divorce case the petitioner needs to file a cover sheet, certificate of divorce, and complaint. An affidavit of impecuniosity may be filed if the petitioner is low income. Otherwise the cost of the divorce is \$155.¹⁵

The complaint must be served on the respondent within 120 days after the filing of the complaint or the case will be dismissed without prejudice.¹⁶ If the action is started by serving the summons and petition, these documents and the proof of service must be filed within ten days of service or the action is to be “deemed dismissed” and the court has “no further jurisdiction thereof.”¹⁷

Service may be by personal service, by someone 18 or older but not a party or a party’s attorney.¹⁸ Rule 4 of the Utah Rules of Civil Procedure says that service may be waived in writing. Service may also be done through alternate service (e.g., by publication) if the identity

¹⁰ Utah Code Ann. § 30-1-4.5 (Lexis 2007).

¹¹ Utah Code Ann. § 30-1-17.1 (Lexis 2007); Haacke v. Glenn, 814 P.2d 1157 (Utah App. 1991).

¹² Utah Code Ann. § 30-1-17.4 (Lexis 2007).

¹³ Utah Code Ann. § 30-3-1 (Lexis 2007).

¹⁴ Utah Code Ann. § 30-3-1(2) (Lexis 2007).

¹⁵ Utah Code Ann. § 78A-2-301 (Lexis Supp. 2008). (Note, this is the first of many code sections that were renumbered, recently.)

¹⁶ Utah R. Civ. P. 4(b). The court may approve a longer time period.

¹⁷ Utah R. Civ. P. 3(a).

¹⁸ Utah R. Civ. P. 4(d)(1).

or whereabouts of the person to be served are unknown.¹⁹ Proof of service must be filed with the court in accordance with Rule 4(e) of the Utah Rules of Civil Procedure.

The respondent, who is served in Utah, has 20 days to answer the complaint.²⁰ Claims that the respondent has against the petitioner should be included as counterclaims.²¹ The respondent can also seek dismissal of the complaint (e.g., for lack of jurisdiction)²² or try to quash service²³.

If the parties have no minor children they need to wait ninety days before the judge will sign a decree of divorce or they can try to get this requirement waived.²⁴ If there are children of the marriage the parties, instead, must attend a divorce education class or try to get this requirement waived.²⁵ The court may also order the divorce education for unmarried parents who are involved in a custody or visitation case.²⁶

A divorce case can be resolved by default,²⁷ stipulation, or trial. If the case is resolved by default, the petitioner may need to file a default certificate, to be signed by the court clerk. In default or stipulated cases the parties will need to file documents called: "Motion for Default" and "Affidavit of Grounds and Jurisdiction." If the case is resolved by stipulation a copy of the stipulation needs to be filed with the court. In all divorce cases (whether resolved by default, stipulation, or trial), the following two documents must be filed: "Findings of Fact and Conclusions of Law" and "Decree of Divorce."

¹⁹ Utah R. Civ. P. 4(d)(4).

²⁰ Utah R. Civ. P. 12(a).

²¹ Utah R. Civ. P. 13(a).

²² See Utah R. Civ. P. 12(b)(6).

²³ See Bonneville Billing v. Whatley, 949 P.2d 768 (Utah App. 1997).

²⁴ See Utah Code Ann. § 30-3-18 (Lexis 2007).

²⁵ Utah Code Ann. §§ 30-3-4, 30-3-11.3 (Lexis 2007).

²⁶ Utah Code Ann. § 30-3-11.3 (Lexis 2007).

²⁷ Utah R. Civ. P. 55.

Chapter 2 Jurisdiction and Service of Process

Jurisdiction In General

The court may grant a divorce only if it has personal and subject matter jurisdiction over both parties.²⁸ According to Jack H. Friedenthal, Civil Procedure § 3.6 (4th ed., West 2005), state courts generally have personal jurisdiction over people who have a domicile in the state. Utah courts also have personal jurisdiction over people, whether or not they are citizens or residents of the state, if the “long arm statute” requirements have been met (e.g., marital residence in Utah or sexual relations in Utah giving rise to a paternity case).²⁹ Jack H. Friedenthal, Civil Procedure § 3.5 (4th ed., West 2005) says that a state may also acquire personal jurisdiction by the consent of the party. Rule 3(b) of the Utah Rules of Civil Procedure says that the court has jurisdiction “from the time of the filing of the complaint or service of the summons and a copy of the complaint.”

District Court Jurisdiction Versus Juvenile Court Jurisdiction

Utah district courts have initial jurisdiction over all civil actions.³⁰ The juvenile court has exclusive jurisdiction in proceedings involving a minor who has been abused, neglected, or dependent (homeless).³¹ The juvenile court may acquire jurisdiction over a case involving a child, “if the child is dependent, abused, [or] neglected” and may change prior district court orders related to custody, support, and parent-time.³²

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

The Uniform Act and PKPA determine whether or not Utah is the appropriate jurisdiction for custody determinations, largely considering where the children reside and where they have resided for the past six months.

The Uniform Act discourages child stealing, encourages interstate cooperation, and avoids prolonged custody battles. Every state has a uniform child custody jurisdiction act in some form. Utah adopted it in 2000 and it is codified as Utah Code Annotated §§ 78B-13-101 to -318. The Uniform Act says that Utah courts have jurisdiction if: (a) Utah is the child's home state³³ at the commencement of the proceeding or was the child's home state within six months of the commencement of the proceeding and the child is absent from the state but a parent (or

²⁸ Curtis v. Curtis, 789 P.2d 717, 726 (Utah Ct. App. 1990).

²⁹ Utah Code Ann. § 78B-3-205 (Lexis Supp. 2008).

³⁰ Utah Code Ann. § 78A-5-102(1) (Lexis Supp. 2008).

³¹ Utah Code Ann. § 78A-6-103(1)(c) (Lexis Supp. 2008).

³² Utah Code Ann. § 78A-6-104(4) (Lexis Supp. 2008).

³³ "Home State" is defined as the state in which a child lived with a parent (or person acting as a parent) for at least six consecutive months immediately preceding the commencement of a child custody proceeding. Utah Code Ann. § 78B-13-102(7) (Lexis 2002).

person acting as a parent) still lives in the state; (b) a court of another state does not have jurisdiction or has declined to exercise jurisdiction (because Utah is a more appropriate forum) and the child and at least one parent (or person acting as a parent) has significant connection with the state (other than mere physical presence) and there is available in the state substantial evidence concerning the child's care, protection, training, and personal relationships; (c) all courts having jurisdiction have declined to exercise it because Utah is the more appropriate forum; or (d) no state would have jurisdiction.³⁴

A court that has made a child custody determination consistent with this act, continues to have exclusive continuing jurisdiction until either: (1) a court of this state determines that neither the child nor the child and a parent (or person acting as a parent) have a significant connection with the state and that substantial evidence is no longer available in the state “concerning the child's care, protection, training, and personal relationships;” or (2) “a court of this state or a court of another state determines that neither the child, nor a parent” (or person acting as a parent) resides in the state.³⁵ A Utah court that has exclusive continuing jurisdiction may decline to exercise jurisdiction if it is an inconvenient forum.³⁶ A Utah court which has made a child custody determination, but does not have exclusive continuing jurisdiction may modify the determination only if it has jurisdiction to make an initial custody determination³⁷ Likewise, a Utah court may not modify a child custody determination of another state unless the Utah court “has jurisdiction to make an initial determination” and the other court “determines that it no longer has exclusive, continuing jurisdiction” or that the Utah court “would be a more convenient forum” or neither the child or a parent (or person acting as a parent) presently resides in the other state.³⁸

A Utah court has temporary emergency jurisdiction if a child is in the state and has been abandoned or needs protection from abuse.³⁹ Courts may consult with each other if there is a dispute about which is the most appropriate forum.⁴⁰

Under the Uniform Act, each party must include as part of his or her first pleading or in a separate affidavit: (a) the child's address, (b) each residence of the child for the previous five years, (c) names and current addresses of persons with whom the child lived during that period, (d) whether the party has participated in other proceedings concerning custody or parent-time of the child and, if so, the court, case number, and date of any determination, (e) whether the party knows of any proceeding that could affect the current proceeding (such as domestic violence, protective orders, termination of parental rights, and adoptions) and, if so, the court, case number, and nature of the proceeding, and (e) whether the party knows the names and addresses of any other people the who have or claim physical custody of the child and, if so, the names and addresses of those people.⁴¹

³⁴ Utah Code Ann. § 78B-13-201 (Lexis Supp. 2008).

³⁵ Utah Code Ann. § 78B-13-202(1) (Lexis Supp. 2008).

³⁶ Utah Code Ann. § 78B-13-202(2) (Lexis Supp. 2008).

³⁷ Utah Code Ann. § 78B-13-202(3) (Lexis Supp. 2008).

³⁸ Utah Code Ann. § 78B-13-203 (Lexis Supp. 2008).

³⁹ Utah Code Ann. § 78B-13-204 (Lexis Supp. 2008).

⁴⁰ See Utah Code Ann. § 78B-13-110 (Lexis Supp. 2008).

⁴¹ Utah Code Ann. § 78B-13-209(1) (Lexis Supp. 2008).

Under the PKPA federal courts are given jurisdiction to combat interference with child custody.⁴² The PKPA is similar to the Uniform Act in determining which state should have jurisdiction over a child custody action.⁴³ A court in a state, other than the one which originally entered the divorce decree, is allowed to modify a decree if it has jurisdiction and the original court no longer has jurisdiction or has declined to exercise jurisdiction.⁴⁴ The PKPA allows the use of the federal parent locator service for parental kidnapping.⁴⁵

The PKPA,⁴⁶ the Uniform Act,⁴⁷ and the United States Constitution⁴⁸ require that full faith and credit be given to any custody decree of a court which had jurisdiction. Utah district courts can register other states' child custody determinations.⁴⁹ Some possible remedies for parental kidnapping, in addition to the Uniform Act and PKPA, are criminal laws, contempt proceedings, tort actions, and preventive measures.

The Hague Convention on the Civil Aspects of International Child Abduction

The Hague Convention on the Civil Aspects of International Child Abduction (in effect between the U.S. and about 30 other countries) helps with the return of abducted children and the exercise of parent-time rights across international boundaries. The Uniform Act allows enforcement of the Hague Convention agreement.⁵⁰

Venue

Divorce actions “must be tried in the county in which the cause of action arises” or where the defendant resides,⁵¹ unless a change of venue is sought⁵².

⁴² Pub. L. No. 96-611, §§ 6-10, 94 Stat. 3568-73 (1980).

⁴³ Compare Utah Code Ann. §§ 78B-13-201, 204 (Lexis Supp. 2008), with 28 U.S.C. 1738A (2000).

⁴⁴ 28 U.S.C. § 1738A(f) (2000).

⁴⁵ 42 U.S.C.A. § 653 (West 2003 & Supp. 2008).

⁴⁶ 28 U.S.C. § 1738A (2000).

⁴⁷ Utah Code Ann. § 78B-13-313 (Lexis Supp. 2008).

⁴⁸ U.S. Const. art. IV, § 1.

⁴⁹ See Utah Code Ann. § 78B-13-305 (Lexis Supp. 2008).

⁵⁰ Utah Code Ann. § 78B-13-302 (Lexis Supp. 2008).

⁵¹ See Utah Code Ann. § 78B-3-307 (Lexis Supp. 2008).

⁵² See Utah Code Ann. § 78B-3-309 (Lexis Supp. 2008).

Chapter 3 Child Custody

Child custody issues arise in divorce, legal separation, protective orders, child abuse cases, and paternity cases. Two types of child custody must be considered: legal custody and physical custody. Legal custody has to do with a parent's "rights, privileges, duties, and powers," regarding a child, including authority to make decisions.⁵³ Physical custody has to do with where the child will live.

The trial court has broad discretion to determine custody.⁵⁴

Joint Legal and Joint Physical Custody

The court may order joint legal and/or joint physical custody if it determines that it is in the best interest of the child and if the parents have filed a parenting plan.⁵⁵ A parenting plan is a plan for parenting a child, including allocation of parenting functions such as decision-making, attending to daily needs, and financial support.⁵⁶ Any party seeking a shared parenting arrangement, such as joint custody, is to file a proposed parenting plan at the time they file their petition, answer or counterclaim.⁵⁷ A party that files a proposed parenting plan, as required, may move for an order of default if the other party fails to file a proposed parenting plan.⁵⁸ The parenting plan must include provisions concerning: future dispute resolution; "allocation of decision-making authority"; residential arrangements for the child; and "provisions addressing notice and parent-time responsibilities in the event of the relocation of either party."⁵⁹ Either parent may make emergency decisions affecting the health or safety of the child.⁶⁰ Each parent is allowed to make decisions regarding the day-to-day care and control of the child during times when the child is residing with that parent.⁶¹ Other provisions may be included regarding the welfare of the child.⁶²

In deciding whether or not to make an order of joint legal or joint physical custody, the court is to determine whether the best interest of the child will be served by such an order, considering: (1) whether or not the "physical, psychological, and emotional needs and development of the child will benefit from joint legal or physical custody;" (2) "the ability of the parents to give first priority to the welfare of the child and reach shared decisions"; (3) whether the parents are "capable of encouraging and accepting a positive relationship between the child and the other parent"; (4) "whether both parents participated in raising the child before the divorce"; (5) the geographical proximity of the parents' homes; (6) the preference of a mature

⁵³ See Utah Code Ann. § 30-3-10.1 (Lexis 2007).

⁵⁴ *Moon v. Moon*, 790 P.2d 52, 54 (Utah App. 1990).

⁵⁵ Utah Code Ann. § 30-3-10.2 (Lexis 2007).

⁵⁶ Utah Code Ann. § 30-3-10.7 (Lexis 2007).

⁵⁷ Utah Code Ann. § 30-3-10.8(1) (Lexis 2007).

⁵⁸ Utah Code Ann. § 30-3-10.8(3) (Lexis 2007).

⁵⁹ Utah Code Ann. § 30-3-10.9(2) (Lexis 2007).

⁶⁰ Utah Code Ann. § 30-3-10.9(5) (Lexis 2007).

⁶¹ Utah Code Ann. § 30-3-10.9(6) (Lexis 2007).

⁶² Utah Code Ann. § 30-3-10.9(2) (Lexis 2007).

child; (7) the maturity of the parents; (8) “the past and present ability of the parents to cooperate with each other and make decisions jointly;” (9) “history of, or potential for, child abuse, spouse abuse, or kidnapping”; and (10) other relevant factors.⁶³ An order for joint legal custody is to provide the terms the court deems appropriate.⁶⁴ Any parental rights not specified in the order “may be exercised by the parent having physical custody” most of the time.⁶⁵ The order may be modified on the motion of either party, if the circumstances have materially and substantially changed and if it would be in the best interest of the child.⁶⁶ The order may be terminated upon the motion of one of the parties.⁶⁷

Physical Custody

In regard to physical custody, the court is to make a child custody order in cases where the parties are separated or where a marriage is declared void or dissolved.⁶⁸ The court is to consider: the best interests of the child; the “past conduct and demonstrated moral standards of each of the parties;” and other factors such as those considered in a joint custody determination.⁶⁹ Desires of the children may be considered, but are not controlling.⁷⁰ The desires of a child 16 years old or older is to be given additional weight, but is not the controlling factor.⁷¹ In awarding custody, the court is to consider, among other factors, “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.”⁷² The court is to consider whether or not a parent desires custody or has attempted to permanently relinquish custody to a third party.⁷³ A court may not discriminate against a parent, due to a disability, in awarding custody.⁷⁴

There can be joint, split, or sole physical custody. Joint physical custody means that both parents have periods of time during which the children reside with them.⁷⁵ Split physical custody “means that each parent has physical custody of at least one of the children.”⁷⁶ Sole physical custody is where one parent has all of the children residing with them and the other parent has some type of parent-time rights.

⁶³ Utah Code Ann. § 30-3-10.2(2) (Lexis 2007).

⁶⁴ Utah Code Ann. § 30-3-10.3(2) (Lexis 2007).

⁶⁵ Utah Code Ann. § 30-3-10.3(4) (Lexis 2007).

⁶⁶ Utah Code Ann. § 30-3-10.4(1) (Lexis 2007).

⁶⁷ Utah Code Ann. § 30-3-10.4(3) (Lexis 2007).

⁶⁸ Utah Code Ann. § 30-3-10(1) (Lexis 2007).

⁶⁹ Utah Code Ann. § 30-3-10(1)(a) (Lexis 2007).

⁷⁰ Utah Code Ann. § 30-3-10(1)(d) (Lexis 2007).

⁷¹ Utah Code Ann. § 30-3-10(1)(d) (Lexis 2007).

⁷² Utah Code Ann. §§ 30-3-10(1)(a)(ii), 30-3-10(2) (Lexis 2007).

⁷³ Utah Code Ann. § 30-3-10(3) (Lexis 2007).

⁷⁴ Utah Code Ann. § 30-3-10(4) (Lexis 2007).

⁷⁵ See Utah Code Ann. § 30-3-10.1 (Lexis 2007) (staying overnight at least 30% of the time); Utah Code Ann. § 78B-12-102(13) (Lexis Supp. 2008) (staying overnight at least 30% of the time).

⁷⁶ Utah Code Ann. § 78B-12-102(19) (Lexis 2007).

A presumption favors natural parents and adoptive parents over nonparents.⁷⁷ That presumption may be rebutted by evidence that: (1) no strong mutual bond exists, (2) the parent has not demonstrated a willingness to sacrifice their own welfare for the child, and (3) the parent lacks sympathy and understanding of the child.⁷⁸ Once that presumption is rebutted the “best interest” (of the child) test applies.⁷⁹

Custody Evaluations

A custody evaluation may be used to determine which parent should have custody. Custody evaluations must be done by a licensed clinical social worker, psychologist (doctoral level), or psychiatrist, or licensed marriage and family therapist (master level minimum) or equivalent.⁸⁰ Custody evaluators must consider: child preference, benefits of keeping children together, bonding, present arrangements, each parent’s character and ability to function as a parent (i.e., moral character, emotional stability, duration and depth of desire, ability to provide personal care, significant impairment of ability due to drug or alcohol abuse, reasons for past relinquishments, religious compatibility, kinship, finances, evidence of spouse or child abuse), and other factors.⁸¹ The court orders performance of a custody evaluation, based on by stipulation or motion.⁸²

Although one factor in deciding custody is who can give personal rather than surrogate care, it would be an abuse of discretion to change custody because the mom has to work full time and the dad has a new wife who would be staying at home.⁸³

Another factor to consider is the identity of the children’s primary caretaker.⁸⁴ If the court looks at who has been the primary caretaker, in determining who should get custody, they would look at such things as: preparation and planning of meals, bathing, grooming, and dressing; purchase, cleaning, and care of clothes; medical care; arranging social interactions; arranging alternative care, putting children to bed and attending to them at night; disciplining children; educating children; and teaching elementary skills.⁸⁵

⁷⁷ Hutchison v. Hutchison, 649 P.2d 38, 40 (Utah 1982) (vacating trial court decision which had awarded custody of three children to father, including one who was not his biological child); In re H.R.V., 906 P.2d 913, 917 (Utah App. 1995) (parental presumption does not apply to later proceedings, once it has been rebutted in an early proceeding).

⁷⁸ Hutchison v. Hutchison, 649 P.2d 38, 41 (Utah 1982).

⁷⁹ Hutchison v. Hutchison, 649 P.2d 38, 41 (Utah 1982).

⁸⁰ Utah Code Jud. Administration 4-903(1).

⁸¹ Utah Code Jud. Administration 4-903(5); see also Hutchison v. Hutchison, 649 P.2d 38, 41 (Utah 1982); Hudema v. Carpenter, 989 P.2d 491, 498-502 (Utah App. 2000).

⁸² See Utah Code Jud. Administration 4-903(2) and Utah Code Jud. Administration 4-903(3).

⁸³ Fullmer v. Fullmer, 761 P.2d 942, 948 (Utah App. 1988).

⁸⁴ Pusey v. Pusey, 728 P.2d 117, 120 (Utah 1986).

⁸⁵ Garska v. McCoy, 278 S.E.2d 357, 363 (W. Va. 1981); cf. Utah Code Ann. § 30-3-10.7(2) (Lexis 2007) (“parenting functions” includes attending to child’s daily needs, education, and social needs).

The district court is required to provide specific findings in custody cases.⁸⁶

Gender-based preferences are no longer allowed in child custody cases” because of article IV, section 1 of the Utah Constitution and the 14th amendment of the U.S. Constitution.⁸⁷

The custodial parent can move out of state unless there is a court order to the contrary.

⁸⁶ Hutchison v. Hutchison, 649 P.2d 38, 42 (Utah 1982).

⁸⁷ Pusey v. Pusey, 728 P.2d 117, 119 (Utah 1986).

Chapter 4 Parent-time

Parent-time in General

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

Section 30-3-32 covers the intents and purposes and definitions of parent-time.⁸⁸ The legislature intends “to promote parent-time at a level consistent with all parties’ interests.”⁸⁹ The court will consider the safety and well-being of abuse victims, in determining parent-time.⁹⁰ Absent a showing, by preponderance of the evidence, of real or substantiated potential harm to a child, it is the entitlement and responsibility of parents and in the best interest of the children to have “frequent, meaningful, and continuing access” to each other following separation or divorce and it is also in the best interest of the children for both parents to be actively involved in parenting the child.⁹¹

Section 30-3-33 provides the following “advisory guidelines” concerning parent-time.⁹² Agreements are preferred.⁹³ Parent-time schedules are to be used to “maximize the continuity and stability” in children’s lives.⁹⁴ Family functions are to be given special consideration.⁹⁵ Responsibility for pick up, delivery, and return of the child is to be determined by the court at the time the parent-time order is entered.⁹⁶ If the noncustodial parent is providing transportation, the custodial parent must have the child ready for parent-time and make arrangements to receive the child after parent-time.⁹⁷ If the custodial parent is providing transportation, the noncustodial parent is to be at the appointed place at the appointed time to receive the child and “have the child ready to be picked up at the appointed time and place” or make “reasonable alternative arrangements for the custodial parent to pick up the child.”⁹⁸ Regular school hours are not to be interrupted for parent-time.⁹⁹ The court may accommodate the parents’ work schedules and may exceed but not diminish standard parent-time.¹⁰⁰ The court may alter the parent-time schedule to “reasonably accommodate the distance between the parties and the expense of exercising parent-time.”¹⁰¹ Neither parent-time nor child support is to be withheld due to failure to comply with

⁸⁸ Utah Code Ann. § 30-3-32 (Lexis Supp. 2008).

⁸⁹ Utah Code Ann. § 30-3-32(1) (Lexis Supp. 2008).

⁹⁰ Utah Code Ann. § 30-3-32(2)(a) (Lexis Supp. 2008).

⁹¹ Utah Code Ann. § 30-3-32(2)(b) (Lexis Supp. 2008).

⁹² Utah Code Ann. § 30-3-33 (Lexis Supp. 2008).

⁹³ Utah Code Ann. § 30-3-33(1) (Lexis Supp. 2008).

⁹⁴ Utah Code Ann. § 30-3-33(2) (Lexis Supp. 2008).

⁹⁵ Utah Code Ann. § 30-3-33(3) (Lexis Supp. 2008).

⁹⁶ Utah Code Ann. § 30-3-33(4) (Lexis Supp. 2008).

⁹⁷ Utah Code Ann. § 30-3-33(5) (Lexis Supp. 2008).

⁹⁸ Utah Code Ann. § 30-3-33(6) (Lexis Supp. 2008).

⁹⁹ Utah Code Ann. § 30-3-33(7) (Lexis Supp. 2008).

¹⁰⁰ Utah Code Ann. § 30-3-33(8) (Lexis Supp. 2008).

¹⁰¹ Utah Code Ann. § 30-3-33(9) (Lexis Supp. 2008).

parent-time orders.¹⁰² The noncustodial parent is to be informed of significant functions in which the child is participating, within twenty-four hours of the time the custodial parent receives notice.¹⁰³ The noncustodial parent is to have direct access to school and medical records and is to be notified immediately of medical emergencies.¹⁰⁴ Each parent is to provide the other with the current address, phone number, email address, etc., within twenty-four hours of a change.¹⁰⁵ Each parent is to permit and encourage reasonable uncensored communication with the child during reasonable hours, by mail or by “virtual parent-time if the equipment is reasonably available.”¹⁰⁶ Parental care is considered to be better than surrogate care.¹⁰⁷ Unless excused by the court, each parent is to advise surrogate care providers with the other parent’s name, address and phone number and advise the other parent of the name, address and phone number of the surrogate care providers.¹⁰⁸ Each parent is entitled to equal division of major religious holidays that are celebrated by the parents.¹⁰⁹ If a child is on a “different parent-time schedule than a sibling” the parents should consider making parent-time “uniform between school aged and nonschool children.”¹¹⁰

Section 30-3-34 talks about the best interests of the children and justifications for allowing less than a normal amount of parent-time.¹¹¹ If parties are unable to agree about parent-time the court may establish a schedule that it considers to be in the best interests of the children.¹¹² The advisory guidelines and parent-time schedule are presumed to be in the best interests of the children.¹¹³

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

¹⁰² Utah Code Ann. § 30-3-33(10) (Lexis Supp. 2008).

¹⁰³ Utah Code Ann. § 30-3-33(11) (Lexis Supp. 2008).

¹⁰⁴ Utah Code Ann. § 30-3-33(12) (Lexis Supp. 2008).

¹⁰⁵ Utah Code Ann. § 30-3-33(13) (Lexis Supp. 2008).

¹⁰⁶ Utah Code Ann. § 30-3-33(14) (Lexis Supp. 2008). “Virtual parent-time” is parent-time that is done through telephone, email, instant messaging, video conferencing, etc. Utah Code Ann. § 30-3-32(3)(d) (Lexis Supp. 2008).

¹⁰⁷ Utah Code Ann. § 30-3-33(15) (Lexis Supp. 2008).

¹⁰⁸ Utah Code Ann. § 30-3-33(16) (Lexis Supp. 2008).

¹⁰⁹ Utah Code Ann. § 30-3-33(17) (Lexis Supp. 2008).

¹¹⁰ Utah Code Ann. § 30-3-33(18) (Lexis Supp. 2008).

¹¹¹ Utah Code Ann. § 30-3-34 (Lexis Supp. 2008).

¹¹² Utah Code Ann. § 30-3-34(1) (Lexis Supp. 2008).

¹¹³ Utah Code Ann. § 30-3-34(2) (Lexis Supp. 2008).

reasonable alternatives to needs of a nursing child; etc.¹¹⁴ Supervised parent-time can also be ordered.¹¹⁵

The schedule is only to be changed by mutual consent or court order.¹¹⁶

Standard Parent-time Schedule for Children Under the Age of Five

Sections 30-3-35 and 30-3-35.5 are the standard parent-time schedules and are considered to be the minimum schedule if the parties cannot agree to something.¹¹⁷ Section 30-3-35.5 is the minimum schedule for parent-time for children under five years of age.¹¹⁸ The text of section 30-3-35.5 is as follows.

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

(2) All holidays in this section refer to the same holidays referenced in Section 30-3-35.

(3) 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 nine 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 nine months of age or older, but younger than 12 months of age:

¹¹⁴ Utah Code Ann. § 30-3-34(2) (Lexis Supp. 2008).

¹¹⁵ Peterson v. Peterson, 818 P.2d 1305 (Utah App. 1991) (supervised parent-time ordered because father had persuaded the child to falsely accuse the mother and her new boyfriend of sexual abuse).

¹¹⁶ Utah Code Ann. § 30-3-34(4) (Lexis Supp. 2008).

¹¹⁷ Utah Code Ann. §§ 30-3-35 to 30-3-35.5 (Lexis Supp. 2008).

¹¹⁸ Utah Code Ann. § 30-3-35.5 (Lexis Supp. 2008).

- (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 12 months of age or older, but younger than 18 months of age:
 - (i) one eight-hour visit per alternating weekend to be specified by the noncustodial parent or court;
 - (ii) on opposite weekends from Subsection (2)(d)(i), from 6 p.m. on Friday until noon on Saturday;
 - (iii) one three-hour visit per week to be specified by the noncustodial parent or court;
 - (iv) eight hours on the holidays and in the years specified in Subsections 30-3-35 (2)(f) through (i); and
 - (v) 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.
- (e) 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.

(f) 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.

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

(5) Virtual parent-time shall be at reasonable hours and for reasonable duration."¹¹⁹

Standard Parent-time Schedule for Children Who Are Five Years or Older

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

“(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) (A) One weekday evening to be specified by the noncustodial parent or the

¹¹⁹ Utah Code Ann. § 30-3-35.5 (Lexis Supp. 2008).

Court, or Wednesday evening if not specified, from 5:30 p.m. until 8:30 p.m.;

(B) 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); or

(C) at the election of the noncustodial parent, if school is not in session, one weekday from approximately 9 a.m., accommodating the custodial parent's work schedule, until 8:30 p.m. if the noncustodial parent is available to be with the child, unless the court directs the application of Subsection (2)(a)(i)(A) or (2)(a)(i)(B).

(ii) Once the election of the weekday for the weekday evening parent-time is made, it may not be changed except by mutual written agreement or court order.

(b) (i) (A) 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;

(B) 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)(A); or

(C) at the election of the noncustodial parent, if school is not in session, on Friday from approximately 9 a.m., accommodating the custodial parent's work schedule, until 7 p.m. on Sunday, if the noncustodial parent is available to be with the child unless the court directs the application of Subsection (2)(b)(i)(A) or (2)(b)(i)(B).

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

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

(iv) Weekends include any "snow" days, teacher development days, or other days when school is not scheduled and which are contiguous to the weekend period.

(c) Holidays include any "snow" days, teacher development days, or other days when school is not scheduled, contiguous to the holiday period, and take precedence over the weekend parent-time. Changes may not be made to the regular rotation of the alternating weekend parent-time schedule; however, birthdays take precedence over holidays and extended parent-time, except Mother's Day and Father's Day; birthdays do not take precedence over uninterrupted parent-time if the parent exercising uninterrupted time takes the child away from that parent's residence for the uninterrupted extended parent-time.

(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.

(ii) (A) 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; or

(B) at the election of the noncustodial parent, if school is not in session, parent-time over a scheduled holiday weekend may begin at approximately 9 a.m., accommodating the custodial parent's work schedule, the first day of the holiday

weekend until 7 p.m. on the last day of the holiday weekend, if the noncustodial parent is available to be with the child unless the court directs the application of Subsection (2)(e)(ii)(A).

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

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

(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) July 4th beginning at 6 p.m. the day before the holiday until 11 p.m. or no later than 6 p.m. on the day following the holiday, at the option of the parent exercising the holiday;

(v) 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;

(vi) 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;

(vii) Veteran's Day holiday beginning 6 p.m. the day before the holiday until 7 p.m. on the holiday; and

(viii) the first portion of the Christmas school vacation as defined in subsection 30-3-32(3)(b) including Christmas Eve and Christmas Day until 1 p.m. on the day halfway through the holiday, if there are an odd number of days for the holiday period, or until 7 p.m. if there are an even number of days for the holiday period, so long as the entire holiday is equally divided;¹²⁰

(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) President's 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;

¹²⁰ (Utah Code Annotated § 30-3-32(3)(b) defines Christmas school vacation as "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.")

(iii) Memorial 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;

(iv) July 24 beginning at 6 p.m. on the day before the holiday until 11 p.m. or no later than 6 p.m. on the day following the holiday, at the option of the parent exercising the holiday;

(v) Columbus Day beginning at 6 p.m. the day before the holiday until 7 p.m. on the holiday;

(vi) Halloween on October 31 or the day Halloween is traditionally celebrated in the local community from after school until 9 p.m. if on a school day, or from 4 p.m. until 9 p.m.;

(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 as defined in Subsection 30-3-32 (3)(b) beginning at 1 p.m. on the day halfway through the holiday, if there are an odd number of days for the holiday period, or at 7 p.m. if there are an even number of days for the holiday period, 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, including weekends normally exercised by the noncustodial parent, but not holidays;

(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 for weekday parent-time but not weekends, except for a holiday to be exercised by the other parent.

(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) Bother parents shall provide notification of extended parent-time or vacation weeks with the child at least 30 days in advance to the other parent, and if notification is not provided timely the complying parent may determine the schedule for extended parent-time for the noncomplying parent.

(n) Telephone contact shall be at reasonable hours and for a reasonable duration.

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

(4) Notwithstanding Subsection (2)(e)(i), the Halloween holiday may not be extended beyond the hours designated in Subsection (2)(g)(vi).¹²¹

Special Circumstances and Relocation

Section 30-3-36 deals with special circumstances.¹²² It provides that children should be gradually reintroduced to an unfamiliar noncustodial parent.¹²³ It also provides that, when a child travels with a parent, the other parent should have the itinerary of travel dates, destinations, places to be reached, and the name and phone number of a knowledgeable third party.¹²⁴

Section 30-3-37 deals with relocation.¹²⁵ A parent who is relocating (150 miles or more from the original residence) needs to give, if possible, “60 days advance written notice of the intended relocation to the other parent.”¹²⁶ The court may make appropriate orders regarding parent-time and costs, considering the cost, reason, resources, etc.¹²⁷ Unless otherwise ordered by the court, the noncustodial parent is to have the child(ren) for one-half of the summer break as well as Thanksgiving (during odd numbered years), spring break (during odd numbered years), winter break (during even numbered years), and fall break (during even numbered years).¹²⁸ In addition, “at the option and expense of the noncustodial parent,” the noncustodial parent is entitled to one weekend per month.¹²⁹ If “finances and distance preclude the exercise of minimum parent-time for the noncustodial parent during the school year, the court should consider awarding more time for the noncustodial parent during the summer time if it is in the best interests of the children.”¹³⁰ If the noncustodial parent is current in paying child support, the relocating party is responsible for all of the child’s travel expenses, related to this relocation parent-time, except for half of the travel expense for summer visit.¹³¹ In addition, the court may order thirty days uninterrupted parent-time.¹³² A parent who does not comply with a

¹²¹ Utah Code Ann. § 30-3-35 (Lexis 2007).

¹²² Utah Code Ann. § 30-3-36 (Lexis 2007).

¹²³ Utah Code Ann. § 30-3-36(1) (Lexis 2007).

¹²⁴ Utah Code Ann. § 30-3-36(2) (Lexis 2007).

¹²⁵ Utah Code Ann. § 30-3-37 (Lexis Supp. 2008).

¹²⁶ Utah Code Ann. § 30-3-37(1) (Lexis Supp. 2008). The notice is to be given 60 days in advance, if possible, and is to contain statements (1) affirming a parent-time schedule and (2) affirming that the parents will not interfere with court ordered or agreed parent-time arrangements. Utah Code Ann. § 30-3-37(1) (Lexis Supp. 2008).

¹²⁷ Utah Code Ann. § 30-3-37(3)-(4) (Lexis Supp. 2008).

¹²⁸ Utah Code Ann. § 30-3-37(5) (Lexis Supp. 2008).

¹²⁹ Utah Code Ann. § 30-3-37(5)(d) (Lexis Supp. 2008).

¹³⁰ Utah Code Ann. § 30-3-37(6) (Lexis Supp. 2008).

¹³¹ Utah Code Ann. § 30-3-37(8) (Lexis Supp. 2008).

¹³² Utah Code Ann. § 30-3-37(7) (Lexis Supp. 2008).

notice of relocation “shall be in contempt of the court’s order.”¹³³ (When a parent relocates because of abuse, the court can make specific orders about how this section is to be applied.)¹³⁴

¹³³ Utah Code Ann. § 30-3-37(11) (Lexis Supp. 2008).

¹³⁴ Utah Code Ann. § 30-3-32(4) (Lexis Supp. 2008).

Chapter 5 Child Support

The Uniform Child Support Guidelines

The Uniform Child Support Guidelines act as a rebuttable presumption for determining the amount of child support.¹³⁵ There are instructions for calculating child support for sole,¹³⁶ joint,¹³⁷ and split custody¹³⁸.

For parents whose combined gross monthly income is between \$650 and \$10,100, the table for child support amounts is found in Utah Code Annotated § 78B-12-301.¹³⁹ If the combined monthly income is higher than \$10,100 the judge sets support on a case-by-case basis, but the amount can not be less than the highest amount shown in the tables.¹⁴⁰ If the gross income of a parent is less than \$650, the amount of child support is to be calculated on a case-by-case basis, but is not to be less than \$30 per month.¹⁴¹

The guidelines can be rebutted, and, if so, support will be calculated based upon: the standard of living, age, and relative wealth of the parties; the ability of each party to earn; the needs of each party and the children; and the responsibility of the parties for the support of others, etc.¹⁴² Worksheets for calculating child support are found in appendix G of the Utah Code Annotated court rules volume and in the appendices in the forms portion of this book.

Calculating Income

Adjusted gross income is to be used in calculating child support and only the income of the natural or adoptive parents of the child may be used to determine the award.¹⁴³ Gross income is prospective income from any source, salaries, wages, commissions, royalties, bonuses, rents, gifts, prizes, dividends, severance pay, pensions, interest, trust income, alimony from previous marriages, annuities, capital gains, social security, workers' compensation, unemployment, disability insurance.¹⁴⁴ Excluded from gross income are: Supplemental Security Income, Social Security Disability Insurance, Medicaid, Food Stamps, General Assistance, cash assistance under the Family

¹³⁵ Utah Code Ann. § 78B-12-210(2) (Lexis Supp. 2008).

¹³⁶ Utah Code Ann. § 78B-12-205 (Lexis Supp. 2008).

¹³⁷ Utah Code Ann. § 78B-12-208 (Lexis Supp. 2008).

¹³⁸ Utah Code Ann. § 78B-12-209 (Lexis Supp. 2008).

¹³⁹ **Important note:** Appendix 13 of the forms portion of this book shows the child support obligation tables for child support orders made on or after January 1, 2008 and for modifications of child support orders made prior to that date if the modification takes place on or after January 1, 2010.

¹⁴⁰ Utah Code Ann. § 78B-12-206 (Lexis Supp. 2008).

¹⁴¹ Utah Code Ann. 78B-12-205(6) (Lexis Supp. 2008).

¹⁴² Utah Code Ann. § 78B-12-202(3) (Lexis Supp. 2008).

¹⁴³ Utah Code Ann. § 78B-12-207 (Lexis Supp. 2008).

¹⁴⁴ Utah Code Ann. § 78B-12-203(1) (Lexis Supp. 2008).

Employment Program, housing subsidies, benefits received under the Job Training Partnership Act, etc.¹⁴⁵ Income is based upon one full-time 40-hour job, unless, at the time of the original support order, it is found that the parent normally and consistently worked more than 40 hours per week.¹⁴⁶ Income from self-employment or business will be calculated at the gross income minus expenses reasonably necessary to allow the business to operate at a reasonable level.¹⁴⁷ When possible, income should be calculated on an annual basis and, then, recalculated to determine the average gross monthly income.¹⁴⁸ Income verification is required.¹⁴⁹

In certain cases income may be imputed.¹⁵⁰ This is allowed only by stipulation, or if the party defaults, or, in contested cases, after a hearing is held and a judge or “presiding officer in an administrative proceeding enters findings of fact as to the evidentiary basis for the imputation.”¹⁵¹ Income is imputed on the basis of employment potential or probable earnings as derived by employment opportunities, work history, occupational 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.”¹⁵² If there is no recent work history or the parent’s occupation is unknown, income will generally be imputed at the federal minimum wage for a 40-hour work week.¹⁵³ Income is not to be imputed “if any of the following conditions exist and the condition is not of a temporary nature”: the cost of child care would approach or equal the amount the custodial parent could make, if the “parent is physically or mentally unable to earn minimum wage,” if the parent is receiving job training to establish basic job skills, or if there are unusual physical or emotional needs of the child.¹⁵⁴ The fact that someone is pursuing a bachelor’s degree does not exempt him from having income imputed.¹⁵⁵

Social security benefits given to a child because of the earnings of a parent will be a credit for that parent against their child support obligation.¹⁵⁶

Child support is to be reduced by 50% for each child during time periods where the child (by court order or written agreement of the parties) is with the noncustodial

¹⁴⁵ Utah Code Ann. § 78B-12-203(3) (Lexis Supp. 2008).

¹⁴⁶ Utah Code Ann. § 78B-12-203(2) (Lexis Supp. 2008).

¹⁴⁷ Utah Code Ann. § 78B-12-203(4) (Lexis Supp. 2008).

¹⁴⁸ Utah Code Ann. § 78B-12-203(5)(a) (Lexis Supp. 2008).

¹⁴⁹ Utah Code Ann. § 78B-12-203(5)(b) (Lexis Supp. 2008).

¹⁵⁰ Utah Code Ann. § 78B-12-203(7) (Lexis Supp. 2008).

¹⁵¹ Utah Code Ann. § 78B-12-203(7)(a) (Lexis Supp. 2008).

¹⁵² Utah Code Ann. § 78B-12-203(7)(b) (Lexis Supp. 2008).

¹⁵³ Utah Code Ann. § 78B-12-203(7)(c) (Lexis Supp. 2008). 29 U.S.C.A. § 206 says that minimum wage is \$6.55 per hour.

¹⁵⁴ Utah Code Ann. § 78B-12-203(7)(d) (Lexis Supp. 2008).

¹⁵⁵ Mancil v. Smith, 18 P.3d 509 (Utah App. 2008)

¹⁵⁶ Utah Code Ann. § 78B-12-203(8) (Lexis Supp. 2008).

parent at least 25 of 30 consecutive days of extended parent-time.¹⁵⁷ Child support is to be reduced by 25% for each child during time periods where the child (by court order or written agreement of the parties) is with the noncustodial parent at least 12 of 30 consecutive days of extended parent-time.¹⁵⁸

Materials That Need to be Filed

In any matter in which child support is ordered, the moving party needs to submit, to the court, child support worksheets, financial verification (i.e., year-to-date pay stubs and completed tax returns for the most recent year, or affidavit of income (after providing it to the defendant)), a written statement of whether or not the amount of support is consistent with the guidelines, and identification information.¹⁵⁹

The social security number of anyone who is subject to a support order is to be placed in the records relating to the case.¹⁶⁰ In addition, upon entry of an order in a paternity or child support case, the state requires identifying information from the parties (i.e., social security number, driver's license number, addresses, phone numbers, name, address, and employer information).¹⁶¹

Termination of Child Support

Child support terminates at age 18 (or upon graduation from high school in the normal and expected year of graduation), or upon emancipation, or upon marriage, or upon entry into military service, or upon adoption.¹⁶² Courts in divorce actions may order support to age 21.¹⁶³ Unless otherwise provided in the child support order, if there are remaining children after one child has reached the age of majority, the child support amount is to be adjusted for the remaining children based upon the current table rather than a "per child" reduction derived from the base child support award originally ordered.¹⁶⁴

Medical and Child Care Expenses

In every decree of divorce, an order must be made assigning responsibility for payment of reasonable and necessary medical and dental expenses of dependant children, and an order requiring insurance if reasonably necessary.¹⁶⁵ Parents are to provide

¹⁵⁷ Utah Code Ann. § 78B-12-216 (Lexis Supp. 2008).

¹⁵⁸ Utah Code Ann. § 78B-12-216 (Lexis Supp. 2008).

¹⁵⁹ Utah Code Ann. § 78B-12-201, 78B-12-203(5) (Lexis Supp. 2008).

¹⁶⁰ Utah Code Ann. § 78B-12-116 (Lexis Supp. 2008).

¹⁶¹ Utah Code Ann. § 78B-12-201(3) (Lexis Supp. 2008); Utah Code Ann. § 62A-11-304.4(1) (Lexis Supp. 2008).

¹⁶² Utah Code Ann. § 78B-12-102(6) (Lexis Supp. 2008); Utah Code Ann. § 78B-12-219 (Lexis Supp. 2008).

¹⁶³ Utah Code Ann. § 15-2-1 (Lexis 2005).

¹⁶⁴ Utah Code Ann. § 78B-12-219(2) (Lexis Supp. 2008).

¹⁶⁵ Utah Code Ann. § 30-3-5(1) (Lexis Supp. 2008).

insurance if reasonably available and share costs, equally, of insurance and uninsured expenses.¹⁶⁶ Both are to give timely information to each other about insurance and expenses.¹⁶⁷

Each parent is to share equally in reasonable work-related child care expenses.¹⁶⁸ These amounts are to be paid monthly.¹⁶⁹ Written verification is required of the cost and the provider's identity.¹⁷⁰ Changes in the child care arrangements need to be disclosed to the other party within thirty days or the parent may not get reimbursed for the expenses.¹⁷¹

Tax Deduction

Title 26 U.S.C. § 71(a) excludes child support from a person's gross income, for tax purposes. Utah Code Annotated § 78-45-217 makes no presumption about who should get to claim a child for federal and state income tax purposes. However, the court or administrative agency, in awarding the tax exemption, is to consider the "relative contribution of each parent to the cost of raising the child" and "the relative tax benefit to each parent." Title 26 U.S.C.A. § 152(c)(4)(B) says that the parent claiming a child as a dependent for tax purposes is to be the parent the child resides with most of the time.

Bankruptcy

According to 11 U.S.C.A. § 523(a)(5), child support is nondischargeable in bankruptcy.

¹⁶⁶ Utah Code Ann. § 78B-12-212(1)-(6) (Lexis Supp. 2008).

¹⁶⁷ Utah Code Ann. § 78B-12-212(7)-(8) (Lexis Supp. 2008).

¹⁶⁸ Utah Code Ann. § 78B-12-214(1) (Lexis Supp. 2008).

¹⁶⁹ Utah Code Ann. § 78B-12-214(2)(a) (Lexis Supp. 2008).

¹⁷⁰ Utah Code Ann. § 78B-12-214(2)(b)(i) (Lexis Supp. 2008).

¹⁷¹ Utah Code Ann. § 78B-12-214(2)(b)(ii)-(3) (Lexis Supp. 2008).

Chapter 6 Alimony¹⁷²

Alimony is a continuation of each spouse's duty to support and maintain the other. The court is allowed to use its discretion in determining alimony.¹⁷³ The court is to consider at least the following factors in determining alimony: (1) the financial condition and needs of the person who is to receive alimony, (2) the earning capacity of the person who is to receive alimony, (3) the ability of the person who is to pay alimony to provide support, (4) the length of the marriage, (5) whether or not the recipient spouse has custody of minor children who require support, (6) whether or not the recipient spouse worked in a business that was owned or operated by the payor spouse, and (7) whether or not the recipient spouse directly contributed to an increase in the payor spouse's skill "by paying for education received by the payor spouse or allowing the payor spouse to attend school during the marriage."¹⁷⁴ The court is to consider all sources of income, including overtime, second jobs, self employment, etc.¹⁷⁵

The court may consider fault in determining alimony.¹⁷⁶ In Childs v. Childs, 967 P.2d 942, 946-47 (Utah App. 1998), a woman was given a lower amount of alimony, in part, because of her fault in engaging in an extra-marital affair.

Generally, the court should look at the standard of living that existed at the time of separation, in determining alimony; but the court is to "consider all relevant facts and equitable principles" and may, in its discretion, base alimony on the standard of living that existed at the time of trial.¹⁷⁷ In short-term marriages, when no children have been conceived or born, the court can consider the standard of living that existed at the time of the marriage.¹⁷⁸ The court may, under appropriate circumstances, attempt to equalize the respective standards of living.¹⁷⁹

If a long-term marriage is ending on the "threshold of a major change in the income of one of the spouses due to the collective efforts of both" that change is to be considered in dividing the marital property and in determining alimony.¹⁸⁰ Likewise, if one spouse's earning capacity has been greatly enhanced by the efforts of both spouses during the marriage, the court can make a compensating adjustment in regard to property division and alimony.¹⁸¹ In short-term marriages, where no children have been conceived

¹⁷² An excellent summary of Utah alimony law is found in: David S. Dolowitz, Rationalizing Alimony Law, 13 Utah B. J. 11 (Aug./Sept. 2000).

¹⁷³ Crompton v. Crompton, 888 P.2d 686, 689 (Utah App. 1994).

¹⁷⁴ Utah Code Ann. § 30-3-5(8)(a) (Lexis 2007).

¹⁷⁵ Crompton v. Crompton, 888 P.2d 686, 689-90 (Utah App. 1994).

¹⁷⁶ Utah Code Ann. § 30-3-5(8)(b) (Lexis 2007).

¹⁷⁷ Utah Code Ann. § 30-3-5(8)(c) (Lexis 2007).

¹⁷⁸ Utah Code Ann. § 30-3-5(8)(c) (Lexis 2007).

¹⁷⁹ Utah Code Ann. § 30-3-5(8)(d) (Lexis 2007).

¹⁸⁰ Utah Code Ann. § 30-3-5(8)(e) (Lexis 2007).

¹⁸¹ Utah Code Ann. § 30-3-5(8)(e) (Lexis 2007).

or born, the court may restore each party to the condition that existed at the time of the marriage.¹⁸²

Alimony generally is not to be ordered for a period longer than the number of years of the marriage.¹⁸³

Half of alimony is generally to be paid on the fifth day of each month and the other half on the twentieth of the month.¹⁸⁴

Unless otherwise ordered by the court, alimony automatically terminates upon the remarriage or death of the former spouse, unless the remarriage is annulled and found to be void ab initio and the obligor spouse is made a party to the action.¹⁸⁵ An order of alimony also terminates upon establishment by the party paying alimony that the former spouse is cohabiting with another person.¹⁸⁶

Alimony is nondischargeable in bankruptcy.¹⁸⁷ Alimony is taxable to the recipient.¹⁸⁸

¹⁸² Utah Code Ann. § 30-3-5(8)(f) (Lexis 2007).

¹⁸³ Utah Code Ann. § 30-3-5(8)(h) (Lexis 2007).

¹⁸⁴ Utah Code Ann. § 30-3-10.5 (Lexis 2007).

¹⁸⁵ Utah Code Ann. § 30-3-5(9) (Lexis 2007).

¹⁸⁶ Utah Code Ann. § 30-3-5(10) (Lexis 2007).

¹⁸⁷ 11 U.S.C.A. § 523(a)(5) (West 2004 & Supp. 2008).

¹⁸⁸ 26 U.S.C. § 71(a) (2000).

Chapter 7 Debts

In a divorce, the court may include equitable orders relating to debts.¹⁸⁹ The court has “considerable latitude” in adjusting financial interests.¹⁹⁰

There is no fixed formula for dividing debts in a divorce action.¹⁹¹ The court could consider such things as each party’s ability to pay, whether the debt was jointly incurred, whether or not the debt can be documented, when the debt was incurred, and who is going to receive the property.

Spouses are not liable for each other’s separate debts other than family expenses, incurred during the marriage, or children’s medical or dental expenses even if they were incurred after divorce or separation.¹⁹² The court may specify which party is responsible for payment of joint debts incurred during the marriage, require the parties to notify respective creditors regarding the court’s division of debts, and provide for enforcement.¹⁹³

A decree cannot alter or end any joint contractual obligation between the parties and a third party.¹⁹⁴ However, a creditor cannot make a negative credit report against the party which has not been ordered to pay, unless they demanded it, first, of the other, who then failed to pay.¹⁹⁵ If there is a court order or an administrative order, providing for payment of children’s medical expenses, the creditor who has a copy of the order can’t charge more than the court-ordered amount, of a parent who has paid their court-ordered portion in full, and can’t make a negative credit report regarding that parent.¹⁹⁶ If one party ultimately fails to repay a joint debt, as ordered by the court, the remedy is a contempt order and judgment for money paid.

Some practitioners put “hold harmless” language in the decree: i.e., “the plaintiff will pay the following debts and hold the other party harmless from liability on those debts.” This will probably be helpful, only, if payment of debts is in the nature of support.¹⁹⁷

¹⁸⁹ Utah Code Ann. § 30-3-5(1) (Lexis 2007).

¹⁹⁰ Finlayson v. Finlayson, 874 P.2d 843, 847 (Utah App. 1994).

¹⁹¹ Finlayson v. Finlayson, 874 P.2d 843, 847 (Utah App. 1994).

¹⁹² Utah Code Ann. § 30-2-5 (Lexis 2007). Family expenses are defined, in Utah Code Annotated § 30-2-9, as “expenses of the family and the education of the children.” Case law has found these to include family expenses incurred while a wife was ill, Izatt v. Izatt, 627 P.2d 49, 52 (Utah 1981), and expenses related to the children, Gulley v. Gulley, 570 P.2d 127, 128-29 (Utah 1977).

¹⁹³ Utah Code Ann. § 30-3-5(1)(c) (Lexis 2007).

¹⁹⁴ Utah Code Ann. § 15-4-6.5(1) (Lexis 2005).

¹⁹⁵ Utah Code Ann. § 15-4-6.5(3) (Lexis 2005).

¹⁹⁶ Utah Code Ann. § 15-4-6.7 (Lexis 2005).

¹⁹⁷ See Beckmann v. Beckmann, 685 P.2d 1045 (Utah 1984); Holt v. Holt, 672 P.2d 738, 742 (Utah 1983).

Debt payment can be considered part of alimony but this makes it tax deductible by the payor and taxable to the payee.¹⁹⁸ Debts could also be considered as additional child support. Practitioners recommend that awards of alimony be given instead of debt payment because, then, the party knows whether or not the debt is really being paid. If debts are for child support they end as the youngest child turns eighteen years old.¹⁹⁹ Practitioners who want debts to be child support and alimony should be sure that the findings show that the court intends the debt payments to be alimony or child support and that payments are necessary in order for the family to meet their needs.

If a creditor seeks to collect on debts, certain items of property are exempt such as: disability and welfare income; alimony; a motor vehicle, not exceeding \$2,500; \$20,000, per joint owner (up to \$40,000), for primary residence; burial plot; health aids; some appliances and furniture; wearing apparel; year's supply of provisions; and bedding.²⁰⁰ However, a creditor may levy against exempt property, other than unemployment benefits, to enforce certain claims (e.g., alimony and support).²⁰¹ A person's earnings may be garnished under Rule 64D of the Utah Rules of Civil Procedure. This cannot exceed 25% of a person's disposable earnings (50% if for child support) and can be even less under certain circumstances.²⁰²

Debts are dischargeable, in bankruptcy, unless characterized as alimony or child support.²⁰³ The federal or state court decides if the debt was in the form of alimony or support²⁰⁴ and may look at such factors as whether or not it is necessary to ensure daily needs of food, housing, etc. Types of bankruptcy include Chapter 7 (liquidation (voluntary or involuntary)); Chapter 13 (individual reorganization of debts); Chapter 11 (business reorganization of debts); Chapter 12 (farm reorganization of debts).²⁰⁵ Bankruptcy proceedings do not "operate as a stay" of "a civil action" in regard to "child custody or visitation," "dissolution of a marriage," "collection of a domestic support obligation from property that is not property of the [bankruptcy] estate," or "withholding of income that is property of the [bankruptcy] estate or property of the debtor for payment of a domestic support obligation under a judicial or administrative order or a statute."²⁰⁶

¹⁹⁸ 26 U.S.C. § 71(a) (2000).

¹⁹⁹ Utah Code Ann. § 78B-12-102(6) (Lexis Supp. 2008); Utah Code Ann. § 78B-12-219 (Lexis Supp. 2008).

²⁰⁰ Utah Code Ann. §§ 78B-5-503 to 78B-5-506 (Lexis Supp. 2008).

²⁰¹ Utah Code Ann. § 78B-5-508 (Lexis Supp. 2008).

²⁰² Utah R. Civ. P. 64D(a)(1).

²⁰³ 11 U.S.C.A. § 523(a)(5) (West 2004 & Supp.2008).

²⁰⁴ Beckmann v. Beckmann, 685 P.2d 1045, 1049 (Utah 1984).

²⁰⁵ More information about different types of bankruptcy can be found in Title 11 of the United States Code.

²⁰⁶ 11 U.S.C.A. § 362(b)(2) (West 2004 & Supp. 2007).

Chapter 8 Property Division

In a divorce, the court may include equitable orders relating to property.²⁰⁷ The court has broad discretion in dividing marital property.²⁰⁸ “Equitable orders” means “fair and reasonable to all concerned.”²⁰⁹ Property should be divided fairly, equitably, and as necessary to protect the parties.²¹⁰ The court could take into account such things as: what property each party brought into the marriage, what property was inherited during the marriage, what items are personal to each party, what property each party received at the time of separation, the economic situations of the parties, and who will have primary custody of the children.

The court first needs to “properly categorize the parties’ property as part of the marital estate or as the separate property of one or the other.” Burt v. Burt, 799 P.2d 1166, 1172 (Utah App. 1990). There is a presumption that each party is “entitled to all of his or her separate property and fifty percent of the marital property. Burt v. Burt, 799 P.2d 1166, 1172 (Utah App. 1990). “[T]he court should then consider the existence of exceptional circumstances. . . . Burt v. Burt, 799 P.2d 1166, 1172 (Utah App. 1990).

The following property is subject to division in the divorce: much of the personal property, goodwill of a business (unless the business is dependent on the other party), personal injury awards for lost wages, retirements, real property. The real property can be ordered sold immediately, or upon remarriage, upon cohabitation, upon moving, or upon children growing up; or the real property can be transferred to one party. The court could measure the nonpossessory spouse’s share of equity in the home based on its current value (with or without interest) or wait and divide the equity equally upon sale. (Parties should include the legal description of the property in the decree if they want to have the order recorded as a transfer of property.)

Property which is generally not subject to division includes: personal injury awards for pain and suffering, gifts to individuals (unless intended for both), premarital property (unless commingled or if duplicate items were sold by the other spouse), inherited property (unless commingled), and advanced degrees.

There is no fixed formula for dividing assets in a divorce action.²¹¹ The parties can agree to a property division and the court will often uphold it. The court will generally uphold prenuptial agreements regarding property, as well. However, if a trial is held, it is important for the court to make findings about the value of the property.

²⁰⁷ Utah Code Ann. § 30-3-5(1) (Lexis 2007).

²⁰⁸ Claus v. Claus, 727 P.2d 184, 185 (Utah 1986).

²⁰⁹ In re Estate of Knickerbocker, 912 P.2d 969, 977 (Utah 1996).

²¹⁰ Claus v. Claus, 727 P.2d 184, 185 (Utah 1986).

²¹¹ Claus v. Claus, 727 P.2d 184, 185 (Utah 1986).

Retirements are personal property and are subject to equitable distribution. A QDRO (qualified domestic relations order) is required for ERISA retirement plans²¹² and must: (1) be a decree, issued by a state court; (2) provide the participant's name and address, the payee's name and address, the amount or percentage of the benefit, the number of payments; and (3) be approved by the retirement company administration. 29 U.S.C. § 1056 (2000). The first QDRO, qualified by the administrator, prevails over later ones.

Property can be awarded as further alimony or support and thus be protected in a bankruptcy action, but be subject to tax, if alimony.

²¹² These employee benefit plans include any that are established or maintained by an employer (or employee organization representing employees) engaged in commerce or in any industry or activity which affects commerce. 29 U.S.C.A. § 1003 (West 1999 & Supp. 2008). Certain church and government plans are not included. 29 U.S.C.A. § 1003 (West 1999 & Supp. 2008).

Chapter 9 Temporary Orders

Many cases require a temporary court order regarding the rights and obligations of the parties. There are several types of temporary orders that may be used in a domestic relations case: ex parte temporary restraining orders,²¹³ protective orders,²¹⁴ and other temporary orders.

Ex Parte Temporary Restraining Orders

Ex parte temporary restraining orders (ordered without first giving notice to the other party) are possible (1) it clearly appears that immediate or irreparable injury, loss, or damage will result prior to a hearing, and (2) documentation of efforts to give notice to the opposing party are provided to the court.²¹⁵ Temporary orders generally expire after ten days, so a hearing should be held within this ten day period to extend the time period during which the order will have effect.²¹⁶ However, nothing limits the equitable powers of the court in administering temporary restraining orders in domestic cases.²¹⁷

To obtain an ex parte temporary order an attorney should file a motion (and affidavit) and get the judge to sign an ex parte order.²¹⁸ Then the attorney should schedule a hearing (within ten days) and attempt to give notice to the opposing party.²¹⁹ (Forms 15 and 16 of the Utah Rules of Civil Procedure provide a sample application for temporary restraining order.)²²⁰

Protective Orders

In situations where there has been cohabitant abuse, the victim may get a protective order.²²¹ The following things can be included in a protective order, without giving notice to the other side: (1) a prohibition against further violence or harassment, (2) exclusive possession of the property, (3) prohibition against use of a firearm, (4) use of personal effects and an automobile, (5) temporary custody of the children (parent-time will be awarded, later, at the hearing), (6) other relief needed to provide safety and welfare, and (7) child support and alimony (income verification needs to be brought to

²¹³ Utah R. Civ. P. 65A(b).

²¹⁴ Utah Code Ann. §§ 30-6-1 to -14 (Lexis 2007).

²¹⁵ Utah R. Civ. P. 65A(b)(1).

²¹⁶ Utah R. Civ. P. 65A(b)(2).

²¹⁷ Utah R. Civ. P. 65A(f).

²¹⁸ See Utah R. Civ. P. 65A(b).

²¹⁹ Utah R. Civ. P. 65A(b).

²²⁰ Utah R. Civ. P. Forms 15 to 16.

²²¹ Utah Code Ann. §§ 30-6-1 to -14 (Lexis 2007).

the hearing).²²² (Items 1-4 are designated as criminal provisions.²²³ Items 5-7 are designated as civil provisions.²²⁴)

Expedited service is required of the sheriff's office in these cases.²²⁵ A hearing is to be held within 20 days after the ex parte order is issued.²²⁶

The civil portion of the final order is to last 150 days or less unless the petitioner provides in writing the reason for the requested extension of time and the court orders it.²²⁷ After two years, hearing may be held to dismiss the criminal portion of the final order.²²⁸ Violation of the "safety" provisions of a protective order is a class A misdemeanor.²²⁹ Violations of the other provisions is subject to a contempt proceeding.²³⁰

Other Temporary Orders

Sometimes parties need non-emergency, temporary relief, prior to the divorce trial (e.g., for support during the pendency of the action). This is allowed by Utah Code Annotated §§ 30-1-17.2(1), 30-3-3(3) and 78-7-17.5(1)(i). A motion is submitted to the judge along with a memorandum, the proposed order, and a request to submit for a decision.²³¹ If the motion is contested memoranda are required and a hearing may be requested. All motions, memoranda, orders, and other pleadings need to be served on the opposing party or their attorney, in accordance with Rules 4 and 5 of the Utah Rules of Civil Procedure.

²²² Utah Code Ann. § 30-6-4.2(2) (Lexis 2007).

²²³ Utah Code Ann. § 30-6-4.2(5) (Lexis 2007).

²²⁴ Utah Code Ann. § 30-6-4.2(5) (Lexis 2007).

²²⁵ Utah Code Ann. § 30-6-4.2(8) (Lexis 2007).

²²⁶ Utah Code Ann. § 30-6-4.3 (Lexis 2007).

²²⁷ Utah Code Ann. § 30-6-4.2(6) (Lexis 2007).

²²⁸ Utah Code Ann. § 30-6-4.2(6)(c) (Lexis 2007).

²²⁹ Utah Code Ann. § 30-6-4.2(5)(b) (Lexis 2007).

²³⁰ Utah Code Ann. § 30-6-4.2(5)(c) (Lexis 2007).

²³¹ See Utah R. Civ. P. 7.

Chapter 10 Findings and Decrees

The final document in a divorce case is the decree of divorce.²³² The decree dissolves the marriage and sets forth the way things will be in regard to access to the children, support, division of property and division of debts.²³³ The decree is used in cases resolved by default, stipulation, or trial. A “Motion for Default” is to be filed along with the decree of divorce.

The court needs to take evidence, even if by affidavit, to support the decree of divorce.²³⁴ Therefore, an “Affidavit of Grounds and Jurisdiction” needs to be filed. Acceptance of the affidavit, by the court, is optional. If the court doesn’t allow the affidavit, then a hearing will need to be held, instead, to establish grounds and jurisdiction.²³⁵

“Findings of Fact and Conclusion of Law” also need to be filed. The “Findings of Fact and Conclusions of Law” provide the basis for the decree of divorce. The findings should deal with every aspect of the divorce—i.e., access to the children, support issues, property and debt division. They provide a list of the facts that the court relied on in making its decision—e.g., “the court finds that the parties have two minor children . . .” or “it is reasonable and proper that Spouse A be awarded permanent custody of the parties’ minor children, subject to reasonable parent-time by Spouse B.” This is an important document on appeal because it allows the appellate court to see what evidence was available and how the court made its decision. The conclusions of law tell the legal basis for the court’s ruling—e.g., that the court has jurisdiction over the parties, that the parties are legally entitled to a divorce, and that the parties are entitled to the things provided for in the findings of fact.

The decree is absolute: (1) upon signing (by the judge) and entry (by the clerk) on the register of actions, or (2) at the expiration of a time period designated by the court, unless an appeal or other proceeding for review is pending, or (3) when the court otherwise orders, prior to the decree becoming absolute.²³⁶ A court can extend the designated time period up to six months.²³⁷ (The findings and decree need to conform to the complaint in a default case or to the stipulation in a stipulated case.)

The file, except for the decree, can be sealed.²³⁸ At the end of the case the attorney should file a notice of entry of the decree of divorce and notice of withdrawal if the attorney will no longer be representing the client.

²³² Utah Code Ann. § 30-3-4 (Lexis 2007).

²³³ Utah Code Ann. § 30-3-5(1) (Lexis 2007).

²³⁴ See Utah Code Ann. § 30-3-4(1)(b), (d) (Lexis 2007).

²³⁵ See Utah Code Ann. § 30-3-4(1)(b), (d) (Lexis 2007).

²³⁶ Utah Code Ann. § 30-3-7(1) (Lexis 2007).

²³⁷ Utah Code Ann. § 30-3-7(2) (Lexis 2007).

²³⁸ Utah Code Ann. § 30-3-4(2) (Lexis 2007).

Chapter 11 Enforcement

Noncompliance with a divorce decree can be dealt with by enforcement or modification of the order. The normal way to enforce a divorce decree is through a contempt order. It is contempt for a person to disobey any “lawful judgment, order or process of the court.”²³⁹ Contempt orders can apply to violations of a temporary or a final order.

When the contempt is not committed in the immediate view of the judge, evidence of the contempt is given to the judge through an affidavit or statement of the facts.²⁴⁰ The affidavit should state the reasons why the person should be held in contempt. A motion requesting an order of contempt is to be in writing and is to state with particularity the grounds and relief sought.²⁴¹

A hearing is held, regarding the motion for contempt, at which time both parties have an opportunity to be heard by the court.²⁴² Evidence is usually given by proffer²⁴³ and affidavit, rather than by taking testimony of witnesses, but it is best to have the witnesses there, available to testify, in case the court requires it. (Check with the court and opposing counsel before the court date to see if witnesses will be needed or if evidence may be proffered.)

The person will be found in contempt if the court believes that they knew what was required, were capable of complying, and willfully and knowingly refused to comply. If a person is found in contempt, the court may order payment of a fine not exceeding \$1,000, and/or sentence the person to 30 days (or less) in jail.²⁴⁴ In addition, the court may order the person to pay the aggrieved party enough money to compensate them for their loss and for costs and expenses.²⁴⁵ If a person is refusing to perform an act enjoined by law, which is yet in their power to perform, the court may imprison the person until they perform the act.²⁴⁶

If a parent does not comply with the minimum amount of parent-time or child support ordered, the court can order ten or more hours of compensatory service and order the offender to participate in workshops, classes, or counseling.²⁴⁷

²³⁹ Utah Code Ann. § 78B-6-301(5) (Lexis Supp. 2008).

²⁴⁰ Utah Code Ann. § 78B-6-303 (Lexis Supp. 2008).

²⁴¹ Utah R. Civ. P. 7(b)(1).

²⁴² Utah Code Ann. § 78B-6-309 (Lexis Supp. 2008).

²⁴³ See Fullmer v. Fullmer, 761 P.2d 942, 945 (Utah App. 1988)

²⁴⁴ Utah Code Ann. § 78B-6-310 (Lexis Supp. 2008).

²⁴⁵ Utah Code Ann. § 78B-6-311 (Lexis Supp. 2008).

²⁴⁶ Utah Code Ann. § 78B-6-312 (Lexis Supp. 2008).

²⁴⁷ Utah Code Ann. § 78B-6-316 (Lexis Supp. 2008).

Enforcement of a child support order may be pursued at any time within four years after the date the child reaches majority or “eight years from the date of entry of the sum certain judgment by a tribunal,” whichever is a longer period of duration.²⁴⁸

For noncompliance with a child support or parent-time order for 60 days a court may, in addition to other sanctions, withhold, suspend, or restrict the use of driver’s licenses, professional and occupational licenses, and recreational licenses.²⁴⁹

Criminal nonsupport of children under 18 years of age is a class A misdemeanor (for the first offense).²⁵⁰ Repeat offenses can result in a conviction of a third degree felony.²⁵¹

Imprisonment doesn’t excuse child support.

Recovery Services

The Office of Recovery Services (“O.R.S.”) has the duty of providing child support services if O.R.S. has received an application for child support services, the state has provided public assistance, or the child lives out of the home.²⁵² In cases where the children are receiving public assistance, the obligor’s income is generally subject to immediate income withholding as of the effective date of the order, even if no delinquency exists.²⁵³ In cases where the children are not receiving public assistance, the obligor’s income is also subject to immediate income withholding as of the effective date of the order, even if no delinquency exists.²⁵⁴ O.R.S. can collect support administratively, and can enforce orders administratively.²⁵⁵ O.R.S. can intercept federal and state income tax refunds to satisfy arrearages.²⁵⁶

Each child support payment is, on or after the date due, a judgment and a lien on real property.²⁵⁷

²⁴⁸ Utah Code Ann. § 78B-5-202(6) (Lexis Supp. 2008).

²⁴⁹ Utah Code Ann. § 78B-6-315 (Lexis Supp. 2008).

²⁵⁰ Utah Code Ann. § 76-7-201 (Lexis 2003).

²⁵¹ Utah Code Ann. § 76-7-201(3) (Lexis 2003).

²⁵² Utah Code Ann. § 62A-11-104(1) (Lexis Supp. 2008).

²⁵³ Utah Code Ann. § 62A-11-404(1) (Lexis 2006).

²⁵⁴ Utah Code Ann. § 62A-11-502 (Lexis 2006 & Supp. 2008).

²⁵⁵ Utah Code Ann. §§ 62A-11-304.2(1), 62A-11-307.1 (Lexis 2006 & Supp. 2008).

²⁵⁶ 42 U.S.C. § 664(a)(2)(A) (2000).

²⁵⁷ Utah Code Ann. § 62A-11-312.5(1) (Lexis Supp. 2008). The lien must be filed in the district court where the property is located and specify the amount of past-due support; it must comply with the procedure requirements of Utah Code Annotated § 78B-5-202. Utah Code Ann. § 62A-11-312.5(2) (Lexis Supp. 2008).

Chapter 12 Modifications

The trial court has continuing jurisdiction over all issues of the divorce and may modify or terminate most prior orders (i.e., custody, support, property, and debts).²⁵⁸ Attorney fees may be awarded if a petition to modify was not done in good faith.²⁵⁹

Modification of Custody

In order to justify a modification of custody the court must find that a substantial change in circumstances has occurred and that the change is in the best interest of the child.²⁶⁰ An example of substantially changed circumstances is changed emotional condition.²⁶¹ The fact that a custodial parent has sought employment, in order to provide for their family, is not a sufficient basis for modifying custody to the noncustodial parent who has now married a person who can provide personal care for the child.²⁶²

To modify an order of joint legal custody, the court must find that there has been a substantial and material change in circumstances and examine what placement is in the best interest of the child.²⁶³

Where the original order was stipulated rather than litigated, the court can modify custody without applying a strict “changed circumstances” test.²⁶⁴

Utah courts can modify custody decrees from other states if the Uniform Child Custody Jurisdiction Act requirements are met.²⁶⁵ This would be the case if the court that made the decree no longer has jurisdiction or has declined to assume jurisdiction to modify it.²⁶⁶

Modification of Parent-time

Modification of parent-time orders follows the same two-step process as custody orders: substantial change and best interests of child. As with custody, a lighter scrutiny is used in stipulated orders.

²⁵⁸ Utah Code Ann. § 30-3-5(3) (Lexis 2007).

²⁵⁹ Utah Code Ann. § 30-3-5(6) (Lexis 2007).

²⁶⁰ Fullmer v. Fullmer, 761 P.2d 942, 946 (Utah App. 1988).

²⁶¹ Elmer v. Elmer, 776 P.2d 599, 605 (Utah 1989) (continuity and stability are important factors to consider when modifying custody).

²⁶² Fullmer v. Fullmer, 761 P.2d 942, 947 (Utah App. 1988).

²⁶³ Utah Code Ann. § 30-3-10.4 (Lexis 2007).

²⁶⁴ Elmer v. Elmer, 776 P.2d 599, 605-06 (Utah 1989).

²⁶⁵ Utah Code Ann. § 78B-13-203 (Lexis Supp. 2008).

²⁶⁶ Utah Code Ann. § 78B-13-203 (Lexis Supp. 2008).

If a parent relocates out of Utah or 150 miles from the original residence, the court may hold a hearing and order the relocating parent to pay some of the costs of visitation.²⁶⁷

Unless otherwise ordered by the court, the noncustodial parent is entitled to spend certain time with the children upon relocation of one of the parties.²⁶⁸ During odd numbered years it is the Thanksgiving holiday and spring school break, if applicable.²⁶⁹ During even numbered years it is the winter and fall breaks.²⁷⁰ In addition, extended parent-time is to be one-half of the summer or off-track time²⁷¹ and, “at the option and expense of the noncustodial parent, one weekend per month”²⁷².

Modification of Child Support

“If the prior court order contains a stipulated provision for” automatically adjusting prospective support, the amount is to be the amount “stated in the order, without a showing of a material change of circumstances,” so long as the stipulated provision is clear and unambiguous, self-executing, provides for support equaling or exceeding the base child support amount found in the guidelines, and does not allow a decrease in support that results from the obligor’s voluntary reduction of income.²⁷³

The trial court retains continuing jurisdiction over child support payments and the amount is subject to review upon a showing of substantial change of circumstances.²⁷⁴

If the amount was not set or modified within the past three years, a parent or guardian or the office may petition the court to adjust the amount.²⁷⁵ If the court finds a permanent difference of 10% or more and if “the order adjusting the payor’s ordered support amount does not deviate from the guidelines,” the court will adjust the amount.²⁷⁶ A showing of substantial change in circumstances is not necessary, under this provision.²⁷⁷

The parent, guardian or the office may petition the court to adjust the support amount, anytime, upon a showing of substantial change in circumstances (e.g., a material change in custody, a material change in the relative wealth or assets of a party, a change of 30% or more in a parent’s income, a material change “in the employment potential and ability of a parent to earn,” a material change in the medical needs of a child, or a

²⁶⁷ Utah Code Ann. § 30-3-37(7)-(8) (Lexis 2007).

²⁶⁸ Utah Code Ann. § 30-3-37(5) (Lexis 2007).

²⁶⁹ Utah Code Ann. § 30-3-37(5)(a) (Lexis Supp. 2008).

²⁷⁰ Utah Code Ann. § 30-3-37(5)(b) (Lexis Supp. 2008).

²⁷¹ Utah Code Ann. § 30-3-37(5)-(6) (Lexis Supp. 2008).

²⁷² Utah Code Ann. § 30-3-37(5)(d) (Lexis Supp. 2008).

²⁷³ Utah Code Ann. § 78B-12-202(1)(b) (Lexis Supp. 2008).

²⁷⁴ Utah Code Ann. § 30-3-5(3) (Lexis 2007).

²⁷⁵ Utah Code Ann. § 78B-12-210(8)(a) (Lexis Supp. 2008).

²⁷⁶ Utah Code Ann. § 78B-12-210(8)(b) (Lexis Supp. 2008).

²⁷⁷ Utah Code Ann. § 78B-12-210(8)(c) (Lexis Supp. 2008).

material change in the legal responsibility of a parent for the support of other people).²⁷⁸ If the court finds a permanent change of 15% or more, in the amount of support, it will change the amount.²⁷⁹

You can't change the child support retroactively, but can go back to when the notice of petition was given to the obligor.²⁸⁰ The court can stay execution of accrued child support.

Modification of Alimony

The court can modify alimony based upon a substantial material change in circumstances "not foreseeable at the time of the divorce."²⁸¹ The court cannot modify or award alimony for needs that did not exist at the time of the divorce, unless the court finds extenuating circumstances.²⁸² Courts look at the "Jones" factors in modifying custody: financial conditions and needs of the recipient, ability of the recipient to work, and the payor's ability to pay.²⁸³

The court can consider a subsequent spouse's financial ability to share living expenses and may consider the income of a subsequent spouse if the "payor's improper conduct justifies that consideration."²⁸⁴

Alimony may be given later even if waived initially.²⁸⁵ The court can stay execution of accrued alimony.

Modification of Property and Debt Division

Property and retirement awards are rarely changed unless addressed in a divorce action. However, the court has continuing jurisdiction to modify divisions of property and debts.²⁸⁶

Other Considerations

²⁷⁸ Utah Code Ann. § 78B-12-210(9)(a) (Lexis Supp. 2008). This subsection provides that a change in the child support obligation table is not considered to be a substantial change in circumstances.

²⁷⁹ Utah Code Ann. § 78B-12-210(9)(c) (Lexis Supp. 2008).

²⁸⁰ Utah Code Ann. § 78B-12-112(4) (Lexis Supp. 2008).

²⁸¹ Utah Code Ann. § 30-3-5(8)(g)(i) (Lexis 2007).

²⁸² Utah Code Ann. § 30-3-5(8)(g)(ii) (Lexis 2007).

²⁸³ *Jones v. Jones*, 700 P.2d 1072, 1075 (Utah 1985).

²⁸⁴ Utah Code Ann. § 30-3-5(8)(g)(iii)(B) (Lexis 2007).

²⁸⁵ *Georgedes v. Georgedes*, 627 P.2d 44, 46 n.1 (Utah 1981).

²⁸⁶ Utah Code Ann. § 30-3-5(3) (Lexis 2007). A substantial change of circumstances must be found before a property division can be modified. See *Childs v. Callahan*, 993 P.2d 244, 247 (Utah App. 1999) (vesting of a military retirement was not a sufficient change of circumstances).

The juvenile court has jurisdiction to change custody, support, parent-time, etc., in child abuse, child neglect, and dependent child cases, as necessary to implement the order of the juvenile court for the safety and welfare of the children.²⁸⁷

²⁸⁷ Utah Code Ann. § 78A-6-104(4) (Lexis Supp. 2008).

Chapter 13 Mediation

Contested divorce cases are required to submit to alternative dispute resolution.²⁸⁸

Mediation is defined as “a private forum in which one or more impartial persons facilitate communication between parties to a civil action to promote a mutually acceptable resolution or settlement.”²⁸⁹ The purpose of alternative dispute resolution, of which mediation is a part, is to promote efficient and effective operation of the courts by authorizing and encouraging ADR so that there can be a just, speedy, and inexpensive determination of civil actions.²⁹⁰ Confidentiality of ADR procedures is intended to aid in the “successful resolution of civil actions in a just, speedy, and inexpensive manner. . . .”²⁹¹ The Judicial Council is to establish rules for administering ADR.²⁹² Mediation is governed by the Utah Rules of Court-Annexed Alternative Dispute Resolution²⁹³ and Rule 4-510 of the Utah Code of Judicial Administration.

Unless all agree, only the parties, representatives, and mediator may attend mediation.²⁹⁴ A settlement agreement between the parties as a result of mediation can be executed in writing, filed with the court, and enforceable as a judgment of the court.²⁹⁵

A wide range of cases are to be referred to the alternative dispute resolution (“ADR”) program upon the filing of a responsive pleading.²⁹⁶ Mediation is to proceed 30 days after the filing of the responsive pleading unless the parties file a statement of deferral (after having viewed a videotape on ADR), or unless the parties file an agreement to submit to arbitration.²⁹⁷ The action will be stayed unless the mediation is done or deferred.²⁹⁸

²⁸⁸ See Utah Code Jud. Administration 4-510.

²⁸⁹ Utah Code Ann. § 78B-6-202 (Lexis Supp. 2008).

²⁹⁰ Utah Code Ann. § 78B-6-203(1) (Lexis Supp. 2008).

²⁹¹ Utah Code Ann. § 78B-6-203(2)(b) (Lexis Supp. 2008).

²⁹² Utah Code Ann. § 78B-6-205 (Lexis Supp. 2008).

²⁹³ These are located immediately following the Utah Rules of Civil Procedure.

²⁹⁴ Utah Code Ann. § 78B-6-207(2)(a) (Lexis Supp. 2008).

²⁹⁵ Utah Code Ann. § 78B-6-207(3) (Lexis Supp. 2008). A lawyer who served “as a mediator in a mediation in which the parties have fully resolved all issues” is allowed to: “prepare formal documents that memorialize and implement the agreement reached in mediation,” “shall recommend that each party seek independent legal advice before executing the documents,” and “with the informed consent of all parties confirmed in writing, may record or may file the documents in court, informing the court of the mediator’s limited representation of the parties for the sole purpose of obtaining such legal approval as may be necessary.” Utah R. Prof. Conduct 2.4(c).

²⁹⁶ See Utah Code Jud. Administration 4-510.

²⁹⁷ Utah Code Jud. Administration 4-510(6)(A).

²⁹⁸ Utah Code Jud. Administration 4-510(6)(C).

There is currently an Expedited Parent-time Program in the third judicial district, until July 1, 2007.²⁹⁹ If a parent files a motion in the third judicial district alleging that court-ordered parent-time rights are being violated, the clerk of the court, after assigning the case to a judge, is to refer the case for assignment to a mediator.³⁰⁰ The mediation can be terminated if an agreement is reached or if the parents are unable to reach an agreement.³⁰¹ A judge may sign an agreement as an order, order the parents to receive services to facilitate parent-time, proceed with the case, or take other appropriate action.³⁰² If abuse is alleged, the judge and Division of Child and Family Services are to be informed, immediately.³⁰³ Expenses of mediation are to be divided equally between the parties, unless one failed to participate in good faith or made an unfounded assertion of abuse (in which case they will be required to pay more).³⁰⁴

In addition, there is a mandatory domestic mediation program throughout the entire state.³⁰⁵ After the filing of an answer to a complaint for divorce, the parties are to participate in at least one mediation session.³⁰⁶ Unless otherwise ordered by the court or agreed to by the parties, the cost of mediation is to be divided equally between the parties.³⁰⁷ The parties may be excused from mediation for good cause.³⁰⁸

Mediators will go through seven steps or stages of mediation.³⁰⁹ The first is intake, in which the parties contact the mediator's office and schedule the first visit.³¹⁰ The second is contracting, in which the parties review the goals of mediation, discuss the role of the mediator, agree to work together, agree to costs, and sign a formal mediation agreement.³¹¹ The third is gathering information, in which the mediator gets a description of the facts and feelings of the parties; the parties begin to listen to each other.³¹² The fourth step is identifying issues, in which the mediator makes a list of the issues, based upon the statements of the parties.³¹³ The fifth is agenda setting, in which the mediators work with the parties to organize and prioritize issues.³¹⁴ The sixth is resolving each issue, in which the mediator (a) gathers additional information, (b) explores needs and interests of the parties, (c) helps develop a list of options to deal with the issue, (d) has the parties evaluate the options, (e) has the parties negotiate with one another and make

²⁹⁹ Utah Code Ann. § 30-3-38(1) (Lexis Supp. 2008).

³⁰⁰ Utah Code Ann. § 30-3-38(3)(a) (Lexis Supp. 2008).

³⁰¹ Utah Code Ann. § 30-3-38(3)(d) (Lexis Supp. 2008).

³⁰² Utah Code Ann. § 30-3-38(3)(e) (Lexis Supp. 2008).

³⁰³ Utah Code Ann. § 30-3-38(4) (Lexis Supp. 2008).

³⁰⁴ Utah Code Ann. § 30-3-38(6) (Lexis Supp. 2008).

³⁰⁵ Utah Code Ann. § 30-3-39(1) (Lexis 2007).

³⁰⁶ Utah Code Ann. § 30-3-39(2) (Lexis 2007).

³⁰⁷ Utah Code Ann. § 30-3-39(4) (Lexis 2007).

³⁰⁸ Utah Code Ann. § 30-3-39(5) (Lexis 2007).

³⁰⁹ Mark D. Bennett & Michele S.G. Hermann, The Art of Mediation 26 (NITA 1996).

³¹⁰ Mark D. Bennett & Michele S.G. Hermann, The Art of Mediation 26 (NITA 1996).

³¹¹ Mark D. Bennett & Michele S.G. Hermann, The Art of Mediation 26 (NITA 1996).

³¹² Mark D. Bennett & Michele S.G. Hermann, The Art of Mediation 26 (NITA 1996).

³¹³ Mark D. Bennett & Michele S.G. Hermann, The Art of Mediation 26 (NITA 1996).

³¹⁴ Mark D. Bennett & Michele S.G. Hermann, The Art of Mediation 26 (NITA 1996).

decisions and agreements.³¹⁵ Sometimes the mediator will caucus, or meet with the parties, individually and confidentially, to discuss sensitive issues, to confront the party about bad behavior, to explore bottom lines, etc.³¹⁶ The final step is reviewing and drafting final agreements.³¹⁷ Some mediators have recommended that the final agreement be an unsigned memorandum of understanding, setting forth what the parties have agreed to.

³¹⁵ Mark D. Bennett & Michele S.G. Hermann, The Art of Mediation 27 (NITA 1996).

³¹⁶ Mark D. Bennett & Michele S.G. Hermann, The Art of Mediation 123-126 (NITA 1996).

³¹⁷ Mark D. Bennett & Michele S.G. Hermann, The Art of Mediation 29 (NITA 1996).

Appendix 1: Sample Documents for Beginning a Divorce Case: cover sheet, department of health form, complaint, parenting plan, motion and affidavit of impecuniosity, order to proceed impecuniously, summons, and a variety of forms for service of process

Sample Cover Sheet

COVER SHEET FOR CIVIL FILING ACTIONS - Page 1

Party Identification (Attach additional sheets as necessary)

PLAINTIFF/PETITIONER	ATTY FOR PLAINTIFF/PETITIONER
Name	Name
Address	Address

Phone Number	Phone Number
--------------	--------------

PLAINTIFF/PETITIONER	ATTY FOR PLAINTIFF/PETITIONER
Name	Name
Address	Address

Phone Number	Phone Number
--------------	--------------

DEFENDANT/RESPONDENT	ATTY FOR DEFENDANT/RESPONDENT
Name	Name
Address	Address

Phone Number	Phone Number
--------------	--------------

DEFENDANT/RESPONDENT	ATTY FOR DEFENDANT/RESPONDENT
Name	Name
Address	Address

Phone Number	Phone Number
--------------	--------------

TOTAL CLAIM FOR DAMAGES	JURY DEMAND
\$ _____	<input type="checkbox"/> Yes <input type="checkbox"/> No

SCHEDULE OF FEES: §78-7-35. CHECK ANY THAT APPLY.

(See Case Types for Filing Fees for Complaints other than Claim for Damages.)

- | | |
|--|--|
| <p>---- COMPLAINT FOR DAMAGES ----</p> <p>\$50 <input type="checkbox"/> Civil or Interpleader: \$2000 or less</p> <p>\$95 <input type="checkbox"/> Civil or Interpleader: \$2001 - \$9999</p> <p>\$155 <input type="checkbox"/> Civil or Interpleader: \$10,000 and over</p> <p>\$155 <input type="checkbox"/> Civil Unspecified</p> | <p>----- SMALL CLAIMS -----</p> <p>\$45 <input type="checkbox"/> Small Claims: \$2000 or less</p> <p>\$70 <input type="checkbox"/> Small Claims: \$2001-\$7500</p> <p>----- MISCELLANEOUS -----</p> <p>\$75 <input type="checkbox"/> Jury Demand</p> <p>\$2 <input type="checkbox"/> Vital Statistics §26-2-25</p> |
|--|--|

COVER SHEET FOR CIVIL FILING ACTIONS - Page 2

Case Type (Check Only One Category)

Fee Case Type

----- **APPEALS** -----

- \$155 Administrative Agency Review
- \$205 Civil (78-7-35.(1)(h))
- \$75 Small Claims Trial de Novo

----- **GENERAL CIVIL** -----

- \$155 Attorney Discipline
- Sch Civil Rights
- \$0 Civil Stalking
- \$155 Condemnation/Eminent Domain
- Sch Contract
- Sch Debt Collection
- Sch Eviction/Forcible Entry and Detainer
- \$65 Expungement (Fee is \$0 under circumstances of §77-18-10(2))
- \$155 Extraordinary Relief
- \$155 Forfeiture of Property
- Sch Interpleader
- Sch Lien/Mortgage Foreclosure
- Sch Malpractice
- Sch Miscellaneous Civil
- Sch Personal Injury
- \$155 Post Conviction Relief: Capital
- \$155 Post Conviction Relief: Non-capital
- Sch Property Damage
- Sch Property/Quiet Title
- Sch Sexual Harassment
- Sch Tax
- \$155 Unsolicited Communication
- Sch Water Rights
- Sch Wrongful Death
- Sch Wrongful Termination

----- **DOMESTIC** -----

- \$0 Cohabitant Abuse
- \$155 Common Law Marriage
- \$155 Custody/Visitation/Support
- \$155 Divorce/Annulment
 - Check if child support, custody or visitation will be part of decree
- \$155 Gestational Agreement
- \$155 Grandparent Visitation
- \$155 Paternity
- \$40 Modify Divorce Decree
- \$155 Separate Maintenance

- \$25 Uniform Child Custody Jurisdiction Act (UCCJA)

- \$25 Uniform Interstate Family Support Act (UIFSA)

----- **JUDGMENTS** -----

- \$25 Abstract of Foreign Judgment or Decree
- \$40 Abstract of Judgment or Order of Utah Court/Agency
- \$30 Abstract of Judgment/Order of Utah State Tax Commission
- \$25 Judgment by Confession

----- **PROBATE** -----

- \$155 Adoption
- \$155 Conservatorship
- \$155 Estate Personal Rep - Formal
- \$155 Estate Personal Rep - Informal
- \$155 Guardianship
- \$155 Involuntary Commitment
- \$155 Minor's Settlement
- \$155 Name Change
- \$155 Supervised Administration
- \$155 Trusts
- \$155 Unspecified Probate

----- **SPECIAL MATTERS** -----

- \$0 Administrative Search Warrant
- \$25 Arbitration Award
- \$0 Criminal Investigation Search Warrant
- \$0 Deposit of Will
- \$0 Determination of Competency in Criminal Case
- \$0 Extradition
- \$25 Foreign Probate or Child Custody Document
- \$0 Hospital Lien
- \$25 Judicial Approval of Document not part of a Pending Case
- \$25 Notice of deposition in out-of-state case
- \$25 Open Sealed Record
- \$155 Wrongful Lien

Effective 05/01/06

Sample Department of Health Form

STATE OF UTAH - DEPARTMENT OF HEALTH

CERTIFICATE OF DIVORCE, DISSOLUTION OF MARRIAGE, OR ANNULMENT

1. HUSBAND'S NAME <i>(First, Middle, Last)</i>							
2a. RESIDENCE - CITY, TOWN OR LOCATION						2b. COUNTY	
HUSBAND	2c. STATE		3. BIRTHPLACE <i>(State or Foreign Country)</i>			4. DATE OF BIRTH <i>(Month, Day, Year)</i>	
	5. NUMBER OF THIS MARRIAGE - First, Second, etc. <i>(Specify below)</i>		6. IF NOT FIRST MARRIAGE, LAST MARRIAGE ENDED: By Death, Divorce, Dissolution, or Annulment <i>(Specify Below)</i>		Date (Mo., Day, Yr.)	7. RACE: White, Black, Amer. Indian, etc. <i>(Specify below)</i>	8. EDUCATION: <i>(Specify only highest grade completed)</i> Elementary/Secondary (0 - 12) College (13-16 or 17+)
9a. WIFE'S NAME <i>(First, Middle, Last)</i>				9b. MAIDEN LAST NAME			
10a. RESIDENCE - CITY, TOWN OR LOCATION						10b. COUNTY	
WIFE	10c. STATE		11. BIRTHPLACE <i>(State or Foreign Country)</i>			12. DATE OF BIRTH <i>(Month, Day, Year)</i>	
	13. NUMBER OF THIS MARRIAGE - First, Second, etc. <i>(Specify below)</i>		14. IF NOT FIRST MARRIAGE, LAST MARRIAGE ENDED: By Death, Divorce, Dissolution, or Annulment <i>(Specify Below)</i>		Date (Mo., Day, Yr.)	15. RACE: White, Black, Amer. Indian, etc. <i>(Specify below)</i>	16. EDUCATION: <i>(Specify only highest grade completed)</i> Elementary/Secondary (0 - 12) College (13-16 or 17+)
17a. PLACE OF THIS MARRIAGE - CITY, TOWN, OR LOCATION			17b. COUNTY		17c. STATE OR FOREIGN COUNTRY	18. DATE OF THIS MARRIAGE <i>(Month, Day, Year)</i>	
MARRIAGE	19. DATE COUPLE LAST RESIDED IN SAME HOUSEHOLD <i>(Month, Day, Year)</i>			20. NUMBER OF CHILDREN UNDER 18 IN THIS HOUSEHOLD AS OF THE DATE IN ITEM 19. Number _____ <input type="checkbox"/> None		21. PETITIONER <input type="checkbox"/> Husband <input type="checkbox"/> Wife <input type="checkbox"/> Both <input type="checkbox"/> Other, Specify _____	
	22a. NAME OF PETITIONER'S ATTORNEY <i>(Type/Print)</i>				22b. ADDRESS <i>(Street and Number or Rural Route Number, City or Town, State Zip Code)</i>		
ATTORNEY	23. I CERTIFY THAT THE MARRIAGE OF THE ABOVE NAMED PERSONS WAS DISSOLVED ON <i>(Month, Day, Year)</i>			24. TYPE OF DECREE, Divorce, Dissolution, or Annulment <i>(Specify)</i>		25. DATE RECORDED <i>(Month, Day, Year)</i>	
	26. NUMBER OF CHILDREN UNDER 18 WHOSE PHYSICAL CUSTODY WAS AWARDED TO: Husband _____ Wife _____ Joint _____ Other _____ <input type="checkbox"/> No Children <input type="checkbox"/> Not Determined Yet			27. COUNTY OF DECREE		28. TITLE OF COURT	
DECREE	29. SIGNATURE OF CERTIFYING OFFICIAL				30. TITLE OF CERTIFYING OFFICIAL		31. DATE SIGNED <i>(Month, Day, Year)</i>

Sample Complaint

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY
STATE OF UTAH
(court's address)

<p>_____,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">vs.</p> <p>_____,</p> <p style="text-align: center;">Respondent,</p>		<p style="text-align: center;">VERIFIED COMPLAINT FOR DIVORCE</p> <p>Case No. _____</p> <p>Judge _____</p>
--	--	--

Petitioner, _____, complains and alleges as follows.

1. Petitioner has been an actual and bono fide resident of _____ County, State of Utah, for at least three months immediately prior to the filing of this action.
2. The parties are wife and husband, having been married on _____, in _____, Utah.
3. The parties maintained their marital domicile and/or the acts giving rise to this action occurred in the County of _____, State of Utah.

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

5. The parties have ____ minor child(ren), namely:
_____, born _____.

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

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

8. Respondent should be awarded rights of parent-time with the parties' minor child(ren) as follows: _____.

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

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

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

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

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

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

15. Each party should attend and complete the two-hour course entitled "Divorce Education for Parents." Information and course schedules may be obtained through the Clerk of the District Court, _____ County. This paragraph should serve as notice to Respondent that he/she is required to attend this course.

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

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

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

19. Respondent's base child support obligation should be set at \$ ___ per month, beginning _____. (Two copies of the "Child Support Obligation Worksheet" are attached and incorporated by reference herein.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26. The parties acquired personal property during the marriage and it should be divided and awarded as follows:

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

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

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

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

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

31. Petitioner (or Respondent)'s name should be changed to _____.

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

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

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

Wherefore, Petitioner asks for the following things.

1. A Decree of Divorce should be awarded to Petitioner and to become absolute upon entry by the Court.
2. Petitioner should be awarded relief and judgment as requested in the foregoing Verified Complaint for Divorce.
3. Petitioner should be awarded other and further relief as the Court deems just and proper.

DATED this ____ day of _____.

By _____
Attorney for Petitioner

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

DATED this ____ day of _____.

Petitioner

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

NOTARY PUBLIC

Petitioner's Address: _____

Sample Parenting Plan

Petitioner submits the following parenting plan in compliance with sections 30-3-10.8 and 30-3-10.9(2) of the Utah Code Annotated, which requires the submission of a parenting plan in actions requesting joint custody, joint legal or physical custody, or other shared parenting arrangements.

- 1. Future disputes will be resolved through mediation, using a mediator chosen by the petitioner. If mediation is unsuccessful, the dispute will be resolved by the court.

- 2. Decision-making authority is as follows: (1) emergency decisions affecting the health or safety of the child will be made by the parent who the child is with at the time of the emergency (the parent who made the decision will notify the other parent of the decision as soon as reasonably possible); (2) decisions regarding the day-to-day care and control of the child will be made by the parent who the child is with at the time the question arises; (3) other decisions concerning the education, health care, or religious upbringing will be made by the petitioner, after consultation with the respondent.

- 3. Residential provisions are as follows:

4. In the event that either party moves from the state of Utah or a distance of 150 miles or more from the residence they had at the time of the divorce, the relocating parent is to give, if possible, 60 days advance notice of the relocation. Notice is to be given by regular mail to the non-relocating parent’s last known address. Immediately upon relocation, the visitation schedule shall change to the schedule outlined in Utah Code Annotated section 30-3-37(5), until further order of the court. The parties will bear their own costs of visitation, until further order of the court.

Sample Motion and Affidavit of Impecuniosity

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(court's address)

Petitioner,		MOTION AND AFFIDAVIT OF IMPECUNIORITY
vs.		
_____		Case No. _____
Respondent,		Judge _____

STATE OF UTAH)
) ss.
COUNTY OF UTAH)

I _____, do solemnly affirm that due to my poverty I am unable to bear the expenses of the action or legal proceedings which I am about to commence, and that I believe I am entitled to the relief sought by this action, legal proceeding, or appeal. Therefore I move that the court allow me to file without paying the court filing fees.

My monthly income, in the amount of _____, comes from the following source(s):

I have the following assets (bank accounts, property, etc.): _____.

My monthly expenses are as follows: _____.

NOTARY PUBLIC

Sample Order to Proceed Impecuniously

(attorney’s name and bar number or petitioner’s name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY
STATE OF UTAH
(court’s address)

_____ ,		ORDER GRANTING
Petitioner,		MOTION TO PROCEED
		IMPECUNIOUSLY
vs.		
_____ ,		Case No. _____
Respondent,		Judge _____

The court grants Petitioner’s motion to file this action without paying the court filing fees.

Dated this _____ day of _____.

DISTRICT JUDGE

Sample Summons

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(court's address)

Petitioner,		SUMMONS
vs.		
_____		Case No. _____
Respondent,		Judge _____

THE STATE OF UTAH TO THE ABOVE-NAMED RESPONDENT:

Read these papers carefully; these papers mean that a lawsuit has been or is being filed against you. You are required to file an answer in writing to the attached Verified Complaint for Divorce with the Clerk of the above-entitled Court, and to serve upon, or mail to the following attorney(s): _____, a copy of your Answer, within twenty (20) days if you are served within the State of Utah or within thirty (30) days if you are served outside of the State of Utah, after service of this Summons upon you. If you fail to do so, judgment by default will be taken against you for the relief demanded in this Verified Divorce Petition, which has been filed, or which will be filed within ten (10) days

of service upon you, with the Clerk of the above-entitled Court and a copy of which is attached and served upon you. The Court's address is: _____

DATED this _____ day of _____.

Serve Respondent at:

A Variety of Sample Forms for Service of Process (1. Return of Service (for regular cases such as when a law enforcement officer serves the papers on the respondent); 2. Acceptance of Service (when the respondent accepts service of process); 3. Acceptance of Service, Appearance, Consent, and Waiver (when the respondent accepts service of process and agrees with the things the petitioner is asking for); 4. Alternative Service Documents (when the respondent can't be found)

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY
STATE OF UTAH
(court's address)

_____ , Petitioner, vs. _____ , Respondent,	RETURN OF SERVICE Case No. _____ Judge _____
---	--

STATE OF UTAH)
 :ss
County of)

_____, (Affiant), being first duly sworn and under oath deposes and says:

1. That Affiant is a resident of _____ County, State of _____, is over the age of eighteen (18) years and does not have any interest in the above-entitled action.

2. That Affiant received the Summons on the ___ day of _____.

3. That Affiant served personally Respondent within said County on the ___ day of _____ and at the time of service of the Summons Affiant knew the party served was the Respondent in this action.

4. The following pleadings and documents were served upon the Respondent at the following address _____:

Verified Complaint for Divorce (including notice of the divorce education class requirement)

Other:

_____.

5. Affiant further states that, at the time of service, Affiant endorsed the copy of the Summons, left for the person being served, with the date and the place of the service and Affiant signed his or her name and added his or her official title, if an officer, thereto.

Serving Party

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

Notary Public

My Commission expires:

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY
STATE OF UTAH
(court's address)

_____ , Petitioner, vs. _____ , Respondent,	<p>ACCEPTANCE OF SERVICE</p> <p>Case No. _____ Judge _____</p>
---	---

Respondent, _____, hereby accepts service of Petitioner's Summons, Verified Divorce Petition, and Notice of Divorce Education Requirement, but reserves the right to answer or otherwise plead to the Verified Complaint for Divorce within the time period stated in the Summons.

Dated this _____ day of _____.

Respondent

Address

City State Zip Code

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

Notary Public

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(court's address)

_____ ,		
Petitioner,		ACCEPTANCE OF SERVICE,
		APPEARANCE, CONSENT, AND
vs.		WAIVER
_____ ,		Case No. _____
Respondent,		Judge _____

Respondent, _____, having received a copy of the petitioner's Summons and Verified Complaint for Divorce and having read the allegations contained therein, herewith enters his appearance, consents to the personal jurisdiction of this Court, waives the statutory time in which to respond, and consents that judgment by default may be entered against him/her at any time and without further notice. Respondent agrees that any statutory waiting periods should be waived. Respondent has been informed of his right to seek legal representation through an attorney of his choice.

Dated this _____ day of _____.

Respondent

Address

City State Zip Code

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

Notary Public

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(court's address)

_____,

Petitioner,

vs.

_____,

Respondent,

MOTION FOR ALTERNATE
SERVICE

Case No. _____

Judge _____

Pursuant to Rule 4 of the Utah Rules of Civil Procedure, Petitioner, _____,
through her attorney, moves the Court for alternate service of the Summons and Verified
Complaint for Divorce in this action. This Motion is supported by Petitioner's Affidavit in
Support, attached hereto.

DATED this _____ day of _____.

Attorney for Petitioner

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY
STATE OF UTAH
(court's address)

_____ ,		
Petitioner,		AFFIDAVIT IN SUPPORT OF
vs.		MOTION FOR ALTERNATE
_____ ,		SERVICE
Respondent,		Case No. _____
		Judge _____

Petitioner, _____, being first duly sworn, deposes and says
as follows.

1. By and through my attorney, _____, I sought to locate the
Respondent for service of process in _____, _____ County, Utah, and after due diligence
have been unable to locate the Respondent. See attached exhibits.

2. I have not seen nor spoken with Respondent since approximately
_____.

3. Respondent's relatives have been unable or unwilling to give me any
information that may lead me to the present whereabouts of Respondent.

4. I have made personal and reasonable efforts to locate the current whereabouts of Respondent, but with no success.

Dated this _____ day of _____.

Petitioner

In the County of _____, State of Utah, on this _____ day of _____,
_____ personally appeared before me, the undersigned notary, and
proved to me her identity through documentary evidence in the form of
_____, to be the person whose name is signed on the preceding
document and acknowledged to me that she signed it voluntarily for its stated purpose.

NOTARY PUBLIC

Residing at: _____

My commission expires: _____

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(court's address)

_____ ,		
Petitioner,		ORDER FOR ALTERNATE SERVICE
vs.		
_____ ,		Case No. _____
Respondent,		Judge _____

Based upon the Motion of Petitioner praying for alternate service of the Summons and Verified Divorce Petition,

It is hereby ordered that service of the Summons in this action be given by:

_____ Mailing it to Respondent's last known address: _____.

or

_____ Publication thereof in the _____, a newspaper published in this county. Said publication shall be at least once a week for four (4) consecutive weeks.

Dated this _____ day of _____.

BY THE COURT:

District Court Judge

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(court's address)

_____ ,		
Petitioner,		AFFIDAVIT OF MAILING
vs.		
_____ ,		Case No. _____
Respondent,		Judge _____

STATE OF UTAH)
 :ss
County of _____)

_____ (affiant), being first duly sworn and under oath, deposes
and says:

1. That affiant is a Deputy Clerk of the above-entitled Court; that affiant has enclosed a true and correct copy of the Summons in this action, together with a copy of the Verified Complaint for Divorce and the Order for Alternative Service, under seal, in an envelope which was legibly addressed as follows:

2. That affiant:

____ fully prepaid the United States postage on the envelope, and deposited the envelope with its enclosures, in the United States mail on the ____ day of _____.

____ caused the envelope, with its enclosures, to be mailed by Certified Mail, return receipt requested, postage fully prepaid, in the United States mail on the ____ day of _____.

AFFIANT

SUBSCRIBED AND SWORN TO before me this ____ day of _____.

NOTARY PUBLIC

Appendix 2: Sample Protective Order Documents

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY
STATE OF UTAH
(court's address)

_____, Petitioner, vs. _____, Respondent,	 	VERIFIED PETITION FOR PROTECTIVE ORDER Case No. _____ Judge _____
---	---	--

KNOWING FALSIFICATION OF ANY STATEMENT OR INFORMATION PROVIDED FOR THE PURPOSE OF OBTAINING A PROTECTIVE ORDER MAY SUBJECT THE PETITIONER TO FELONY PROSECUTION.

Petitioner, _____, complains and alleges as follows.

1. Petitioner is a resident of _____ County, State of Utah.
2. The acts giving rise to this petition happened in _____ County, State of Utah.
3. Neither party is a step, adoptive, or natural minor child of the other party.
4. Petitioner is _____ years of age and is a cohabitant of the respondent, having the

following relationship: _____ (currently or formerly married, currently living or having lived as if married, related by blood or marriage, have children together, and/or have resided in the same residence).

5. On or about _____, 200__, the respondent physically harmed or attempted to physically harm the petitioner or caused the petitioner to be in imminent fear of physical harm, as described below:

6. The respondent's use or possession of a weapon may pose a serious threat of harm to the petitioner for the following reason(s):

7. The petitioner requests protection on behalf of the following family and household members:

Wherefore, Petitioner asks for the following things.

1. Petitioner asks for an immediate Ex Parte Protective Order:

a. restraining the respondent from physically harming, attempting to physically harm, or placing the petitioner (or others listed above) in imminent fear of physical harm;

b. prohibiting the respondent from communicating with the petitioner;

c. ordering the respondent to leave and stay away from petitioner's residence and place of employment and other places, as specified, below:

d. ordering the respondent not to purchase, use, or possess a firearm or other weapon;

e. ordering the respondent to allow the petitioner to have possession of the parties' automobile and of the petitioner's essential personal effects (an officer to accompany the petitioner in obtaining possession of these items);

f. giving the petitioner temporary custody of the minor children of the parties;

g. other relief as outlined below

h. child support and alimony (verification to be provided at the hearing).

(The violation of items a, b, c, d, and/or e is to be a class A misdemeanor criminal offense; the violation of items f, g, and/or h is to be a civil offense subject to contempt proceedings.)

2. Petitioner asks for an order requiring the respondent to attend a hearing on this petition at the following place and time.

3. Petitioner asks that, after the hearing, a protective order be issued, including all of the things asked for in this petition, plus child visitation arrangements as follows:

The civil provisions of the protective order should last for 150 days.

DATED this ____ day of _____.

By _____
Attorney for Petitioner

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

DATED this ____ day of _____.

Petitioner

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

NOTARY PUBLIC

Serve respondent at:

Respondent is further described as follows (e.g., drivers license number, social security number, date of birth, telephone number, physical description):

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY
STATE OF UTAH
(court's address)

_____ ,		
Petitioner,		EX PARTE
		PROTECTIVE ORDER
vs.		
_____ ,		Case No. _____
Respondent,		Judge _____

The Court, having jurisdiction, and having found that the petitioner is a cohabitant of the respondent, orders the following things, pending a hearing.

1. The respondent is restrained from physically harming, attempting to physically harm, or placing the petitioner (or others listed above) in imminent fear of physical harm.
2. The respondent is prohibited from communicating with the petitioner.
3. The respondent is ordered to leave and stay away from petitioner's residence and place of employment and other places, as specified, below:

4. The respondent is ordered not to purchase, use, or possess a firearm or other weapon.

5. The respondent is ordered to allow the petitioner to have possession of the parties' automobile and of the petitioner's essential personal effects. (An officer is to accompany the petitioner in obtaining possession of these items.)

6. The petitioner is awarded temporary custody of the minor children of the parties.

7. Other relief is granted, as outlined below:

8. Respondent is ordered to pay monthly child support in the amount of \$_____ and monthly alimony in the amount of \$_____.

The violation of items 1, 2, 3, 4, and/or 5 is to be a class A misdemeanor criminal offense; the violation of items 6, 7, and/or 8 is to be a civil offense subject to contempt proceedings.

Respondent is to attend a hearing on this petition at the following place and time.

District Judge

Date

Serve Respondent at:

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY
STATE OF UTAH
(court's address)

_____ ,		
Petitioner,		PROTECTIVE ORDER
vs.		
_____ ,		Case No. _____
		Judge _____
Respondent,		

The Court, having jurisdiction, and having found that the petitioner is a cohabitant of the respondent, orders the following things.

1. The respondent is restrained from physically harming, attempting to physically harm, or placing the petitioner (or others listed above) in imminent fear of physical harm.
2. The respondent is prohibited from communicating with the petitioner.
3. The respondent is ordered to leave and stay away from petitioner's residence and place of employment and other places, as specified, below:

_____.

4. The respondent is ordered not to purchase, use, or possess a firearm or other weapon

5. The respondent is ordered to allow the petitioner to have possession of the parties' automobile and of the petitioner's essential personal effects. (An officer is to accompany the petitioner in obtaining possession of these items.)

6. The petitioner is awarded temporary custody of the minor children of the parties.

7. Other relief is granted, as outlined below:

8. Respondent is ordered to pay monthly child support in the amount of \$ _____ and monthly alimony in the amount of \$ _____

9. Child visitation arrangements are as follows:

The violation of items 1, 2, 3, 4, and/or 5 is to be a class A misdemeanor criminal offense; the violation of items 6, 7, 8, and/or 9 is to be a civil offense subject to contempt proceedings.

The civil provisions will end on _____, 200__.

Three years after the date this protective is issued, a hearing may be held to dismiss the criminal portion. Petitioner should advise the court of her address, within thirty days prior to the end of the three year period.

District Judge

Date: _____

Serve Respondent at:

Appendix 3: Sample Temporary Order Documents

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(Court address)

_____,		
Petitioner,		MOTION FOR TEMPORARY ORDER
vs.		
_____,		Case No.
Respondent,		Judge _____

Petitioner moves for a temporary order as follows.

1. Petitioner should be awarded the temporary care, custody and control of the minor child(ren) of the parties: _____.
2. Respondent should have parent-time with the parties' minor child(ren) as follows:
3. Pick up and return of the parties' minor child(ren) for parent-time purposes should occur at Petitioner's residence.
4. Respondent should be responsible for all costs associated with visiting the parties' minor child(ren).

5. A sum of \$___ per month should be ordered as base support for the minor child(ren) of the parties, pursuant to the Uniform Civil Liability For Support Act.

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

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

6. Each party should share equally all reasonable and necessary health, optical, hospital, dental and other medical expenses of the parties' minor children including, but not limited to: out-of-pocket costs actually paid by either parent for the minor children's portion of health, optical, hospital, dental and other medical insurance coverage and all reasonable and necessary uninsured health, optical, hospital, dental and other medical expenses, including deductibles and co-payments, incurred for the dependent children and actually paid by either parent. _____ should maintain health, optical, hospital, dental and other medical insurance on the parties' minor children if coverage is or becomes available at a reasonable cost.

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

7. Petitioner and Respondent should each be responsible and liable for one-half of the reasonable child care costs actually incurred each month as a result of Petitioner's schooling and/or work. Petitioner should provide documentation for

reimbursement within thirty (30) days. Respondent's portion of these child care costs should be paid directly to Petitioner by the 10th of each month.

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

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

8. Alimony, in the amount of \$____ per month should be awarded during the pendency of this divorce action.

9 Respondent should temporarily pay and assume and hold Petitioner harmless from any liability on the party's debts.

10. Respondent should be temporarily restrained from selling, transferring, encumbering, or otherwise disposing of any interest in the real or personal property acquired and presently owned by the parties.

11. Petitioner should be awarded temporary exclusive possession and use of the parties' home and household goods during the pendency of this divorce action.

12. Respondent should, throughout the pendency of this divorce action, provide petitioner with an automobile with four good tires and in such condition as to pass a Utah State Inspection.

13. Respondent should be temporarily restrained from bothering, harassing, annoying, threatening, or harming Petitioner at any time or in any place.

DATED this ____ day of _____.

[Attorney's name]
Attorney for Petitioner

Certificate of Mailing

On this ____ day of _____, a true and correct copy of the foregoing document was hand delivered or mailed, with all needed postage prepaid, to Respondent at:

_____.

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY
STATE OF UTAH
(Court address)

_____ ,		
Petitioner,		MEMORANDUM SUPPORTING
		MOTION FOR TEMPORARY
vs.		ORDER AND REQUEST FOR
		HEARING
_____ ,		Case No.
Respondent,		Judge _____

The Verified Complaint for Divorce establishes the following facts.

The parties have ___ minor children: _____, born _____ . During the course of the marriage, Petitioner was the primary caretaker of the minor children and was responsible for the day to day care of the children. Since the time of the parties' separation, the children have lived with Petitioner.

Respondent has/has not received public assistance for the parties' minor children from the state of Utah. Petitioner has a gross monthly income of \$_____, is/is not under court order to pay child support; does/does not pay alimony to any ex-spouse; contributes \$_____ toward monthly premiums for health, hospital, and dental care insurance on the parties' minor children; and pays \$_____ as work-related child care costs.

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

Respondent has been abusive to Petitioner during their marriage.

The court should order the following things.

1. It is in the best interest of the children that Petitioner be awarded their temporary care, custody, and control, until the case can be determined on its merits.

2. It is in the best interest of the children that Respondent have parent-time with the parties' minor child(ren) as follows: _____.

3. Pick up and return of the parties' minor child(ren) for parent-time purposes should occur at Petitioner's residence. Respondent should be responsible for all costs associated with visiting the parties' minor child(ren).

4. A sum of \$___ per month should be ordered as base support for the minor child(ren) of the parties, pursuant to the Uniform Civil Liability For Support Act.

Respondent's income should be subject to immediate and automatic income withholding as of the effective date of this order, regardless or whether a delinquency exists. Each party should keep the Office of Recovery Services informed of changes in his or her address, employment, and income.

5. Each party should share equally all reasonable and necessary health, optical, hospital, dental and other medical expenses of the parties' minor children including, but not limited to: out-of-pocket costs actually paid by either parent for the minor children's

portion of health, optical, hospital, dental and other medical insurance coverage and all reasonable and necessary uninsured health, optical, hospital, dental and other medical expenses, including deductibles and co-payments, incurred for the dependent children and actually paid by either parent. _____ should maintain health, optical, hospital, dental and other medical insurance on the parties' minor children if coverage is or becomes available at a reasonable cost.

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

7. Petitioner and Respondent should each be responsible and liable for one-half of the reasonable child care costs actually incurred each month as a result of Petitioner's schooling and/or work. Petitioner should provide documentation for reimbursement within thirty (30) days. Respondent's portion of these child care costs should be paid directly to Petitioner by the 10th of each month. Petitioner should provide written verification of the cost and identity of the child care provider to Respondent. Petitioner should notify Respondent of any change in the child care provider or the monthly child care expense within thirty (30) calendar days from the date of the change.

8. Alimony, in the amount of \$___ per month, should be awarded at this time.

9. Respondent should temporarily pay and assume and hold Petitioner harmless from any liability on the party's debts.

10. Respondent should temporarily restrained from selling, transferring, encumbering, or otherwise disposing of any interest in the real or personal property acquired and presently owned by the parties.

11. Petitioner should be awarded temporary exclusive possession and use of the parties' home and household goods during the pendency of this divorce action.

12. Respondent should, throughout the pendency of this divorce action, provide petitioner with an automobile with four good tires and in such condition as to pass a Utah State Inspection.

13. Respondent should be temporarily restrained from bothering, harassing, annoying, threatening, or harming Petitioner at any time or in any place.

Petitioner requests a hearing before _____, District Court Judge, at the court located at the following address: _____ on the ____ day of _____, _____ at _____ a.m./p.m..

DATED this ____ day of _____.

Certificate of Mailing

On this ____ day of _____, a true and correct copy of the foregoing document was hand delivered or mailed, with all needed postage prepaid, to Respondent at:

_____.

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(Court address)

_____ ,		
Petitioner,		REQUEST TO SUBMIT
		FOR DECISION
vs.		
_____ ,		Case No. _____
Respondent,		Judge _____

Petitioner requests that a decision be made in regard to her Motion for Temporary Order. The motion was served on the following date: _____. The opposing memorandum was served on the following date: _____. The reply memorandum was served on the following date: _____. The hearing was held on the following date: _____.

Certificate of Mailing

On this ____ day of _____, a true and correct copy of the foregoing document was hand delivered or mailed, with all needed postage prepaid, to Respondent at:

_____.

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY
STATE OF UTAH
(Court address)

_____ , Petitioner, vs. _____ , Respondent,	TEMPORARY ORDER Case No. _____ Judge _____
---	--

The Court, having heard the testimony of the parties at the Order to Show Cause Hearing and being otherwise fully advised, it is hereby ordered as follows.

1. Petitioner is awarded the temporary care, custody and control of the minor child(ren) of the parties: _____.
2. Respondent's shall have parent-time with the parties' minor child(ren) as follows: _____.
3. Pick up and return of the parties' minor child(ren) for parent-time purposes shall occur at Petitioner's residence.
4. Respondent shall be responsible for all costs associated with visiting the parties' minor child(ren).

5. A sum of \$___ per month is ordered as base support for the minor child(ren) of the parties, pursuant to the Uniform Civil Liability For Support Act.

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

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

6. Each party shall share equally all reasonable and necessary health, optical, hospital, dental and other medical expenses of the parties' minor children including, but not limited to: out-of-pocket costs actually paid by either parent for the minor children's portion of health, optical, hospital, dental and other medical insurance coverage and all reasonable and necessary uninsured health, optical, hospital, dental and other medical expenses, including deductibles and co-payments, incurred for the dependent children and actually paid by either parent. Both parties shall maintain health, optical, hospital, dental and other medical insurance on the parties' minor children if coverage is or becomes available at a reasonable cost.

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

7. Petitioner and Respondent shall each be responsible and liable for one-half of the reasonable child care costs actually incurred each month as a result of Petitioner's schooling and/or work. Petitioner shall provide documentation for reimbursement within

thirty (30) days. Respondent's portion of these child care costs shall be paid directly to Petitioner by the 10th of each month.

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

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

8. Alimony, in the amount of \$ ___ per month, is awarded to Petitioner.

9. Respondent shall temporarily pay and assume and hold Petitioner harmless from any liability on the party's debts.

10. Respondent is temporarily restrained from selling, transferring, encumbering, or otherwise disposing of any interest in the real or personal property acquired and presently owned by the parties.

11. Petitioner is awarded temporary exclusive possession and use of the parties' home and household goods during the pendency of this divorce action.

12. Respondent is, throughout the pendency of this divorce action, to provide petitioner with an automobile with four good tires and in such condition as to pass a Utah State Inspection.

13. Respondent is temporarily restrained from bothering, harassing, annoying, threatening, or harming Petitioner at any time or in any place.

DATED this ___ day of _____.

BY THE COURT

DISTRICT COURT JUDGE

Certificate of Mailing

On this ____ day of _____, a true and correct copy of the foregoing document was hand delivered or mailed, with all needed postage prepaid, to Respondent at:

_____.

Appendix 4: Sample 90 Day Waiver Documents

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(Court address)

_____, Petitioner, vs. _____, Respondent,		MOTION TO WAIVE NINETY DAY WAITING PERIOD Case No. Judge _____
---	--	---

The petitioner moves the court to enter an order waiving the ninety day waiting period in the above action. This motion is made pursuant to Utah Code Annotated § 30-3-18 and is supported by the accompanying affidavit.

DATED this _____ day of _____.

Attorney for Petitioner

CERTIFICATE OF MAILING

On this ____ day of _____, a true and correct copy of the foregoing document was mailed/ or hand delivered, with all needed postage prepaid to: _____.

My Commission Expires: _____

CERTIFICATE OF MAILING

On this ____ day of _____, a true and correct copy of the foregoing document
was mailed or hand delivered, with all needed postage prepaid to: _____

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(Court address)

_____ ,

Petitioner,

vs.

_____ ,

Respondent,

ORDER WAIVING NINETY
DAY WAITING PERIOD

Case No. _____

Judge _____

Based upon the Motion of Petitioner requesting a waiver of the ninety day waiting period, IT IS HEREBY ORDERED that the ninety day waiting period be waived in this case.

Dated this _____ day of _____.

BY THE COURT:

District Court Judge

CERTIFICATE OF MAILING

On this ____ day of _____, a true and correct copy of the foregoing document
was mailed or hand delivered, with all needed postage prepaid to _____:

Appendix 5: Sample Divorce Class Waiver Forms

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(Court address)

_____ ,		
Petitioner,		MOTION TO WAIVE DIVORCE
		EDUCATION CLASS
vs.		REQUIREMENT
_____ ,		Case No. _____
Respondent,		Judge _____

The petitioner moves the court to enter an order waiving the divorce education class requirement in the above action. This motion is made pursuant to Utah Code Annotated § 30-3-4 and is supported by the accompanying affidavit.

DATED this _____ day of _____.

[name]
Attorney for Petitioner

CERTIFICATE OF MAILING

On this ____ day of _____, a true and correct copy of the foregoing document
was mailed or hand delivered, with all needed postage prepaid to

_____:

CERTIFICATE OF MAILING

On this ____ day of _____, a true and correct copy of the foregoing document
was mailed or hand delivered, with all needed postage prepaid, to: _____

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(Court address)

_____ ,		
Petitioner,		ORDER WAIVING DIVORCE
		EDUCATION CLASS
vs.		REQUIREMENT
_____ ,		Case No. _____
Respondent,		Judge _____

Based upon the Motion of Petitioner praying for Waiver of the Divorce Education Class,
IT IS HEREBY ORDERED that Divorce Education Class requirement be waived in this case.

Dated this _____ day of _____.

BY THE COURT:

District Court Judge

CERTIFICATE OF MAILING

On this ____ day of _____, a true and correct copy of the foregoing document
was mailed or hand delivered, with all needed postage prepaid to:

_____.

Appendix 6: **Sample Stipulation**

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(court's address)

_____, Petitioner, vs. _____, Respondent,		STIPULATION Case No. _____ Judge _____
---	--	--

The parties agree as follows.

1. Respondent hereby withdraws his/her answer to the Verified Complaint for Divorce and allows judgment to be entered by default, in accordance with this stipulation.
2. Petitioner has been an actual and bono fide resident of Utah County, State of Utah, for at least three months immediately prior to the filing of this action.
3. The parties are wife and husband, having been married on _____, in _____, Utah.
4. The parties maintained their marital domicile and/or the acts giving rise to this action occurred in the County of _____, State of Utah.

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

6. The parties have ____ minor child(ren), namely:
_____, born _____.

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

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

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

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

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

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

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

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

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

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

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

18. Respondent's base child support obligation should be set at \$___ per month, beginning _____, pursuant to the "Uniform Civil Liability for Support Act." (A "Child Support Obligation Worksheet" is attached and incorporated by reference herein.)

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

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

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

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

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

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

c. Either parent who incurs health, optical, hospital, dental and other medical expenses for the parties' minor child(ren) should provide written verification of the costs

and payment of such health, optical, hospital, dental or other medical expenses to the other parent within thirty (30) days of payment.

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

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

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

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

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

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

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

25. The parties acquired personal property during the marriage and it should be divided and awarded as follows:

a. To Petitioner: _____.

b. To Respondent: _____.

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

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

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

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

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

30. Petitioner's name should be changed to _____.

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

32. Each party should be responsible for his or her own attorney's fees.

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

DATED this ____ day of _____.

By _____
Attorney for Petitioner

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

DATED this ____ day of _____.

Petitioner

In the County of _____, State of Utah, on this _____ day of _____, _____ personally appeared before me, the undersigned notary, and proved to me his/her identity through documentary evidence in the form of a _____, to be the person whose name is signed on the preceding document and acknowledged to me that he/she signed it voluntarily for its stated purpose.

NOTARY PUBLIC

Residing at: _____

My Commission Expires: _____

DATED this ____ day of _____.

Attorney for Respondent

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

DATED this ____ day of _____.

Respondent

In the County of _____, State of Utah, on this _____ day of _____, _____ personally appeared before me, the undersigned notary, and proved to me his/her identity through documentary evidence in the form of a _____, to be the person whose name is signed on the preceding document and acknowledged to me that he/she signed it voluntarily for its stated purpose.

NOTARY PUBLIC

Residing at: _____

My Commission Expires: _____

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(court's address)

_____		ORDER
Petitioner,		
vs.		
_____		Case No. _____
Respondent,		Judge _____

The court grants Petitioner's motion to proceed with the case. He/she does not have to pay a bond.

Dated this _____ day of _____.

DISTRICT JUDGE

Sample Notice to Submit

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE FOURTH DISTRICT COURT OF UTAH COUNTY

STATE OF UTAH

125 N. 100 W., Provo, Utah 84604

_____ ,		
Petitioner,		Notice to Submit for Entry of
vs.		of Default Decree of Divorce
_____ ,		Case No.
Respondent,		Judge _____

Petitioner hereby submits notice that the above entitled matter is ready for entry of a default divorce decree. I have reviewed the documents and statements required by law to be filed with the court and certify that said documents or statements, as listed below, are filed concurrently herewith or have already been filed with the court.

1. Both parties have attended the divorce education class.
2. Petitioner filed a divorce complaint on the ___ day of ___, 20__.
3. The filing fee has been paid by Petitioner or waived based on Petitioner's impecuniosity.

4. Respondent's notarized acceptance of service is on file with the court.
5. A default certificate, motion for entry of default, affidavit of grounds and jurisdiction, proposed findings, and a proposed decree are being submitted with this document.
6. Application for a default decree is based upon Petitioner's complaint. No responsive pleadings have been filed.
7. The affidavit of grounds and jurisdiction states that:
 - a. Petitioner was a resident of the county where this court is located at the time of filing and for at least three months prior to filing.
 - b. The parties are currently married.
 - c. The grounds for divorce are irreconcilable differences and are stated fully in the affidavit in support.
 - d. Petitioner is not receiving state assistance.
 - e. The findings and decree conform to the complaint which forms the basis for entry of the decree by default.

Dated this _____ day of _____, 20__.

 Petitioner

State of Utah
 County of _____

_____ upon being first duly sworn, deposes and says that he/she is the petitioner in the above-entitled matter, that he/she has read the foregoing document and understands the contents thereof, and the same is true to the best of his/her knowledge.

Dated this _____ day of _____, 20__.

Notary Public/Deputy Clerk

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the foregoing Notice to Submit for Entry of Default Divorce Decree was mailed, postage prepaid, on this _____ day of _____, 20__, to Respondent at: _____

Sample Motion for Entry of Default Decree of Divorce

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(court's address)

<p>_____,</p> <p style="text-align: center;">Petitioner,</p> <p style="text-align: center;">vs.</p> <p>_____,</p> <p style="text-align: center;">Respondent,</p>		<p style="text-align: center;">MOTION FOR ENTRY OF DEFAULT DECREE OF DIVORCE</p> <p style="text-align: center;">Case No. _____ Judge _____</p>
--	--	--

The petitioner, hereby moves this court for an entry of the Decree of Divorce in this matter, based upon the petitioner's Verified Complaint for Divorce and the respondent's Acceptance of Service, and failure to answer within the time allotted by Utah.

DATED this ____ day of _____.

Petitioner (or Petitioner's Attorney)

CERTIFICATE OF MAILING

On this _____ day of _____, I mailed a true and correct copy of the
foregoing motion, postage prepaid, to:

Sample Affidavit of Grounds and Jurisdiction

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(court's address)

Petitioner,		PETITIONER'S AFFIDAVIT
		OF JURISDICTION AND
vs.		GROUNDS FOR DIVORCE
_____		Case No. _____
		Judge _____
Respondent,		

Petitioner, being duly sworn, states as follows.

1. I am the petitioner in the above entitled action.

2. I am currently a resident of _____ County, and have been for at least three months immediately preceding the filing of the Verified Complaint for Divorce on _____.

3. The respondent and I were married on the ____ day of _____, in the city of _____, State of _____, and are presently married.

4. During my marriage to the respondent, irreconcilable differences developed. The respondent and I have been separated since _____, because of irreconcilable differences.

5. During the course of the marriage we experienced difficulties that cannot be reconciled and which prevent us from pursuing a viable marriage. The irreconcilable differences are:

All attempts to reconcile have failed and I do not feel that this marriage can continue.

6. To the best of my knowledge the Findings of Fact and Conclusions of Law, and Decree conform to my original Verified Divorce Petition.

DATED this ____ day of _____.

Petitioner

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

Notary Public

CERTIFICATE OF MAILING

On this ____ day of _____, a true and correct copy of the foregoing document
was mailed or hand delivered, with all needed postage prepaid, to: _____

Sample Affidavit of Income

(attorney’s name and bar number or petitioner’s name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(court’s address)

_____ ,		
Petitioner,		PETITIONER’S AFFIDAVIT
		OF INCOME VERIFICATION AND
vs.		COMPLIANCE WITH THE UNIFORM
		CHILD SUPPORT GUIDELINES
_____ ,		Case No. _____
		Judge _____
Respondent,		

Petitioner, being duly sworn, states the following.

1. I am the petitioner in the above entitled action.
2. The following documents have been submitted, as follows, to verify the party’s earnings, in compliance with Utah law:

_____ child support worksheet with written statement indicating whether or not the amount of child support requested is consistent with the guidelines;

_____ year-to-date pay stubs or employer statements for Petitioner;

_____ year-to-date pay stubs and employer statements are unavailable for Petitioner;

_____ year-to-date pay stubs or employer statements for Respondent;
_____ year-to-date pay stubs and employer statements are unavailable for Respondent;
_____ complete copies of income tax returns for the most recent year for Petitioner;
_____ copies of income tax returns for the most recent year for Petitioner are unavailable;
_____ complete copies of income tax returns for the most recent year for Respondent;
_____ copies of income tax returns for the most recent year for Respondent are unavailable.

3. My monthly income and my spouse's monthly income is as follows.

_____ My gross income is \$ _____ per hour for _____ hours per week with a total of \$ _____ per month, through my employment at _____.

_____ I am voluntarily underemployed or unemployed but am capable of working at a job which would pay \$ _____ per hour for _____ hours per week, based upon my work experience during the period of my marriage to Respondent and income should be attributed to me in the amount of \$ _____ per month.

_____ I am unemployed and receive \$ _____ per month in non-countable government assistance, as defined in Utah Code Ann. § 75-45-7.5(3).

_____ I am unemployed and receive \$_____ per month in countable government assistance, as defined in Utah Code Ann. § 75-45-7.5(1).

_____ Social Security benefits or other unearned income received by the child because of my earnings, in the amount of \$_____ per month, should be credited as my total child support obligation.

_____ I believe that Respondent's gross income is \$_____ per hour for _____ hours per week with a total of \$_____ per month, through his/her employment at _____, imputed income based upon historical earnings, or income imputed at minimum wage.

_____ Respondent is voluntarily underemployed or unemployed but is capable of working at a job which would pay \$_____ per hour for _____ hours per week, based upon his/her work experience during the period of our marriage and income should be attributed to him/her in the amount of \$_____ per month.

_____ Respondent is unemployed and receive \$_____ per month in non-countable government assistance, as defined in Utah Code Ann. § 75-45-7.5(3).

_____ Respondent is unemployed and receive \$_____ per month in countable government assistance, as defined in Utah Code Ann. § 75-45-7.5(1).

_____ Social Security benefits or other unearned income received by the child because of Respondent's earnings, in the amount of \$ _____ per month, should be credited as his/her total child support obligation.

4. Child support is set at \$ _____, which is consistent with the child support guidelines.

5. My fixed total necessary monthly living expenses are:

- a) rent/mortgage \$ _____
- b) utilities \$ _____
- c) telephone \$ _____
- d) auto \$ _____
- e) food \$ _____
- f) insurance \$ _____
- g) other \$ _____

6. My other necessary liabilities include: \$ _____ (student loans, outstanding medical bills, & etc.)

DATED this _____ day of _____.

Petitioner

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

Notary Public

CERTIFICATE OF MAILING

On this ____ day of _____, a true and correct copy of the foregoing document was mailed or hand delivered, with all needed postage prepaid, to: _____

(Note: any available income verification information (such as each party's year-to-date pay stubs, the parties' most recent tax return, child support worksheets, etc. should be attached to this form.)

2. The parties are wife and husband, having been married on _____, in _____.
3. The parties maintained their marital domicile and/or the acts giving rise to this action occurred in the County of Utah, State of Utah.
4. The parties have experienced irreconcilable differences in their marriage. They have been unable to resolve their marital problems, making continuation of their marriage impossible.
5. The parties have _____ minor child(ren), namely: _____, born _____.
6. Plaintiff states, upon information and belief that there are no proceedings for custody of the above-named minor child(ren) filed or pending in the Juvenile Court.
7. The parties' minor child(ren) has/have resided in the State of Utah for at least six (6) months immediately prior to the filing of this action.
8. The parties' minor child(ren) currently live(s) with Petitioner and Petitioner has been the child(ren)'s primary caretaker and is a fit and proper parent. Therefore, it is in the best interest of the parties' minor child(ren) that Petitioner be awarded permanent sole care, custody and control of the minor child(ren).
9. It is fair and reasonable that Respondent should be awarded the following rights of parent-time with the parties' minor child(ren): _____.
10. It is fair and reasonable that pick up and return of the parties' minor child(ren) occur at Petitioner's residence.
11. It is fair and reasonable that Respondent be responsible for all costs associated with visiting the parties' minor child(ren).

12. It is fair and reasonable that Respondent be permanently restrained from removing the parties' minor child(ren) from Petitioner's state of residence without the Petitioner's notarized, written consent, or by court order. It is fair and reasonable that, if Respondent does remove the child(ren), an immediate pick-up order should be issued.

13. It is fair and reasonable that each party be permanently restrained from saying and/or doing anything derogatory against the other in the presence of the parties' minor child(ren).

14. It is fair and reasonable that Petitioner be entitled to claim the parties' minor child(ren) as dependent(s) for tax purposes.

15. Each party has attended the "Divorce Education for Parents" course.

16. Public assistance has/has not been received from the State of Utah for the Parties' minor child(ren).

17. Petitioner has a gross monthly income of \$____; is/is not under court order to pay child support; does/does not alimony to any ex-spouse; contributes \$_____ toward monthly premiums for health, hospital, and dental care insurance on the parties' minor child(ren); and pays nothing as work-related child care costs.

18. Respondent has a gross monthly income of approximately \$____; is/is not under court order to pay child support, for the benefit of the parties' minor child(ren); does/does not pay alimony to any ex-spouse; contributes \$_____ toward monthly premiums for health, hospital, and dental care insurance on the parties' minor child(ren); and pays nothing as work-related child care costs.

19. It is reasonable and proper the respondent's base child support be set at \$_____ per month, beginning _____.

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

b. If the Office of Recovery Services enforces the child support order, it is reasonable and proper that Respondent's income be subject to immediate and automatic income withholding as of the effective date of the order, regardless of whether a delinquency exists.

c. It is reasonable and proper each party keep the Office of Recovery Services informed of changes in his or her address, employment, and income.

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

a. It is reasonable and proper that _____ maintain health, optical, hospital, dental and other medical insurance on the parties' minor child(ren) if coverage is or becomes available at a reasonable cost.

b. It is reasonable and proper that _____ provide proper verification of health, optical, hospital, dental and other medical insurance coverage to _____, and

the Utah State Office of Recovery Services if requested, upon initial enrollment of the dependent child(ren), and thereafter on or before January 2nd of each calendar year.

Furthermore, it is reasonable and proper that _____ notify _____, and the Utah State Office of Recovery Services, if requested, of any change of insurance carrier, premium, or benefits within thirty (30) days of the date he or she first knew or should have known of the change. If such verification is not provided to the Office of Recovery Services, it is reasonable and proper that no credit be given by the Office of Recovery Services.

c. It is reasonable and proper that either parent who incurs health, optical, hospital, dental and other medical expenses for the parties' minor child(ren) provide written verification of the costs and payment of such health, optical, hospital, dental or other medical expenses to the other parent within thirty (30) days of payment.

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

a. It is reasonable and proper that Petitioner provide written verification of the cost and identity of the child care provider to Respondent.

b. It is reasonable and proper that Petitioner notify Respondent of any change in the child care provider or the monthly child care expenses within thirty (30) calendar days from the date of the change.

22. It is reasonable and proper that a monthly cash payment of alimony in the amount of \$ ____ be awarded in this matter.

23. It is reasonable and proper that Petitioner be ordered to pay and assume only the following debts: _____. It is reasonable and proper that Petitioner hold Respondent harmless from any liability on these debts.

24. It is reasonable and proper that Respondent be ordered to pay and assume all other debts incurred during the parties' marriage, but prior to their separation, including but not limited to the following: _____. It is reasonable and proper that Respondent hold Petitioner harmless from any liability on these debts.

25. It is reasonable and proper that each party be ordered to pay and assume their own debts incurred after the parties' separation on or about _____. It is reasonable and proper that each party shall hold the other harmless from any liability on these debts.

26. It is reasonable and proper that the parties personal property, acquired during the marriage, be divided and awarded as follows:

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

27. The parties do not own an interest in real property. (Or, During their marriage, the parties acquired real property located at _____. This real property is presently owned by _____ and _____. The legal description of the property is _____. It is reasonable and proper that the parties' real property, and its debt and equity, be awarded to Petitioner. Petitioner should hold Respondent harmless

from any mortgages, liens, taxes, encumbrances, and any other liabilities on this real property.)

28. The parties are expecting an income tax refund for the tax year _____. It is reasonable proper that any tax refund be awarded to Petitioner.

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

30. It is reasonable and proper that Respondent be permanently restrained from bothering, harassing, annoying, threatening, and/or harming Petitioner at any time or in any place.

31. It is reasonable and proper that Petitioner's name be changed to _____.

32. It is reasonable and proper that Respondent be responsible and liable for all court costs incurred as a result of this action.

33. It is reasonable and proper that each party be responsible for his or her own attorney's fees.

34. It is reasonable and proper that each party be ordered to execute and deliver to the other party any documents necessary to implement the provisions of the Decree of Divorce entered by the Court.

From the foregoing Findings of Fact, the Court now makes and enters its:

CONCLUSIONS OF LAW

The Court concludes that the parties are subject to the jurisdiction of the Court as set out above under the Court's Findings of Fact, and that the Plaintiff is entitled to a Decree of Divorce, the same to become final upon entry herein.

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

DATED this ____ day of _____.

BY THE COURT

DISTRICT COURT JUDGE

CERTIFICATE OF MAILING

On this _____ day of _____, I mailed a true and correct copy of the foregoing, postage prepaid, to:

Sample Decree of Divorce

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY
STATE OF UTAH
(court's address)

_____ ,		
Petitioner,		DECREE OF DIVORCE
vs.		
_____ ,		Case No. _____
Respondent,		Judge _____

The Respondent received a copy of the Verified Complaint for Divorce and signed an Acceptance of Service, Appearance, Consent, and Waiver and has failed to appear in person or otherwise file responsive pleadings and the Court therefore enters the Respondent's default.

The Court, having found and entered its Findings of Fact and Conclusions of Law and being otherwise fully advised, it is hereby,

ORDERED, ADJUDGED AND DECREED:

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

2. The parties have _____ minor child(ren), namely:
_____, born _____.

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

4. Respondent is to be awarded rights of parent-time with the parties' minor child(ren) as follows: _____.

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

6. Respondent is to be responsible for all costs associated with visiting the parties' minor child(ren).

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

8. Petitioner is entitled to claim the parties' minor child(ren) as dependents for tax purposes.

9. Respondent is ordered to pay child support in the amount of \$___ per month, beginning _____.

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

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

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

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

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

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

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

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

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

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

12. A monthly cash payment of alimony, in the amount of \$_____, is awarded in this matter, to _____.

13. Petitioner is ordered to pay and assume only the following debts:
_____. Petitioner shall hold Respondent harmless from any liability on these debts.

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

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

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

- a. To Petitioner: _____.
- b. To Respondent: _____.
- c. All remaining personal property is awarded as currently held by each party.

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

18. It is ordered that any tax refund received be awarded to the party that worked for that refund.

19. There are/are no pension, profit sharing, and/or retirement benefits which accrued during the parties' marriage. (It is ordered that the benefits derived from _____ be awarded as follows: _____).

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

21. Petitioner's name is hereby changed to _____.

22. The _____ District Court of _____ County, State of Utah, is awarded judgment against Respondent as and for all court costs incurred as a result of this action in the amount of \$___, to be paid within thirty (30) days of the entry of the Decree of Divorce.

23. Each party is responsible for his or her own attorney's fees.

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

DATED this _____ day of _____.

BY THE COURT

DISTRICT COURT JUDGE

CERTIFICATE OF MAILING

On this _____ day of _____, I mailed a true and correct copy of the foregoing document, postage prepaid, to:

Sample Notice of Entry

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(court's address)

Petitioner,		NOTICE OF ENTRY OF
vs.		DECREE OF DIVORCE
_____		Case No. _____
Respondent,		Judge _____

TO RESPONDENT:

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

DATED this _____ day of _____.

[name]
Attorney for Petitioner

CERTIFICATE OF MAILING

I certify that I mailed a copy of the foregoing Notice of Entry of Decree of Divorce and Judgment to _____ at the following address
_____, postage prepaid, this ____ day
of _____, _____.

Appendix 8: Sample QDRO

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY
STATE OF UTAH
(court's address)

_____, Petitioner, vs. _____, Respondent,		QUALIFIED DOMESTIC RELATIONS ORDER Case No. _____ Judge _____
---	--	--

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

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

3. _____ is the administrator of the plan.

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

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

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

7. The spouse's interest in the plan shall be calculated as follows: _____.

8. The spouse's interest in the plan shall be payable to him/her in a manner that he/she chooses, upon:

- (a) termination of the participant's employment;
- (b) the participant's retirement and receipt of benefits;
- (c) the participant's death.

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

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

11. The plan administrator shall not be required to provide the spouse any benefit or option not available to the participant under the plan.

12. The plan administrator shall not be required to provide increased benefits, determined by actuarial value, not available to the participant.

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

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

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

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

(a) the receipt of a copy of this order by the plan administrator;

(b) the plan's procedures for determining the qualified state of the domestic relations order;

(c) determine whether or not this order is a qualified domestic relations order and notify the court, the participant, the spouse, and another alternate payee;

(d) pending the determination of whether or not this order is a qualified domestic relations order, segregate in a separate account in the plan or in escrow account the amounts which would have been available to the spouse during such period if this order had been determined to be a qualified domestic relations order pursuant to 29 U.S.C. 1056(d)(3)(H)(i).

17. This order is intended to be a qualified domestic relations order made pursuant to the Retirement Equity Act of 1984 and its provisions shall be administered and interpreted in conformity with that act.

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

Dated this ___ day of _____.

District Court Judge

APPROVED AS TO FORM:

(Name)

Counsel for the participant

MAILING CERTIFICATE

I certify that I mailed a copy of the foregoing qualified domestic relations order, postage prepaid, to the plan administrator, at _____, and to _____, attorney for the participant, at _____, on this ____ day of _____, _____.

Appendix 9: Sample Notice of Withdrawal

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY
STATE OF UTAH
(court's address)

_____ ,		
Petitioner,		NOTICE AND WITHDRAWAL
vs.		OF COUNSEL
_____ ,		Case No. _____
		Judge _____
Respondent,		

_____ gives notice that he/she is withdrawing as counsel for Petitioner
in the above matter.

DATED this _____ day of _____.

[name]
Attorney for Petitioner

CERTIFICATE OF MAILING

I certify that I mailed a copy of the foregoing Notice and Withdrawal of Counsel to _____, postage prepaid, this ____ day of _____, _____, to: _____, at the following address:
_____.

Appendix 10: Sample Enforcement Documents

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(Court address)

_____ , Petitioner, vs. _____ , Respondent,	MOTION FOR ORDER TO SHOW CAUSE Case No. Judge _____
---	--

Petitioner moves for an order that the Respondent appear before
_____, District Court Judge, at _____ on the _____
day of _____, at _____ a.m./p.m., to show cause, of any he or she may have:

1. Why Respondent should not be held in contempt for failure to
_____.
2. Why Respondent should not be held in contempt and a judgment entered for
\$ _____ for his or her failure to pay _____ as ordered by the court.

DATED this _____ day of _____.

[Attorney's name]
Attorney for Petitioner

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(Court address)

_____ ,		
Petitioner,		AFFIDAVIT SUPPORTING
		MOTION FOR ORDER TO
vs.		SHOW CAUSE
_____ ,		Case No.
Respondent,		Judge _____

STATE OF UTAH)
) ss
COUNTY OF _____)

Petitioner, being first duly sworn and upon oath, states as follows.

1. On the ___ day of _____, an order/decre was entered in the above-entitled matter.

2. The order/decre says: _____.

3. Respondent has not complied with this portion of the order/decre.

DATED this ___ day of _____.

Affiant

In the County of _____, State of Utah, on this _____ day of _____, _____ personally appeared before me, the undersigned notary, and proved to me his/her identity through documentary evidence in the form of a _____, to be the person whose name is signed on the preceding document and acknowledged to me that he/she signed it voluntarily for its stated purpose.

NOTARY PUBLIC

Residing at: _____

My Commission Expires: _____

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(Court address)

_____,		
Petitioner,		ORDER TO
		SHOW CAUSE
vs.		
_____,		Case No.
Respondent,		Judge _____

TO _____:

You are ordered to appear before _____, District Court Judge, at _____ on the _____ day of _____, at _____ a.m./p.m., to show cause:

1. Why Respondent should not be held in contempt for failure to: _____.
2. Why Respondent should not be held in contempt and a judgment entered for \$ ___ for his or her failure to pay _____ as ordered by the court.

DATED this _____ day of _____.

BY THE COURT

THE HONORABLE JUDGE _____
DISTRICT COURT JUDGE

Serve Respondent at: [address]

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(Court address)

_____ ,		
Petitioner,		ORDER ON ORDER TO SHOW CAUSE
vs.		
_____ ,		Case No.
Respondent,		Judge _____

The hearing on the Order to Show Cause brought by _____ was held on the _____ day of _____, the Honorable _____ presiding. Petitioner and Respondent appeared in person. The Court, having heard the testimony of the parties at the Order to Show Cause Hearing and being otherwise fully advised, it is hereby ordered as follows.

1. Respondent is found to be in contempt for failure to _____.

The Respondent is ordered to do the following as a consequence _____.

2. A judgment is entered for \$____, against _____, for his or her failure to pay _____ as ordered by the court.

DATED this _____ day of _____.

BY THE COURT

THE HONORABLE JUDGE _____
DISTRICT COURT JUDGE

Certificate of Mailing

On this ____ day of _____, a true and correct copy of the foregoing document was hand delivered or mailed, with all needed postage prepaid, to Respondent at:

_____.

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(Court address)

_____ ,		NOTICE OF ENTRY OF
Petitioner,		ORDER ON ORDER TO SHOW
		CAUSE
vs.		
_____ ,		Case No.
Respondent,		Judge _____

Pursuant to Rule 58A(d) of the Utah Rules of Civil Procedure, all parties are hereby notified that on the ____ day of _____, an Order on Order to Show Cause in the above-entitled matter was signed and entered by the court. A copy of the order is attached.

DATED this ____ day of _____.

BY THE COURT

THE HONORABLE JUDGE _____
DISTRICT COURT JUDGE

Appendix 11: **Sample Modification Documents** (Note: this first document should be served in the same manner as a divorce petition.)

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(Court address)

_____ ,		
Petitioner,		PETITION TO MODIFY DIVORCE DECREE
vs.		
_____ ,		Case No.
Respondent,		Judge _____

Petitioner moves the court to modify the divorce decree entered on the ____ day of _____, in the following manner and for the following reasons.

1. _____.

2. _____.

DATED this ____ day of _____.

[Attorney's name]
Attorney for Petitioner

DATED this ____ day of _____.

Petitioner

In the County of _____, State of Utah, on this _____ day of _____, _____ personally appeared before me, the undersigned notary, and proved to me his/her identity through documentary evidence in the form of a _____, to be the person whose name is signed on the preceding document and acknowledged to me that he/she signed it voluntarily for its stated purpose and acknowledged that the allegations therein are true.

NOTARY PUBLIC

My commission expires: _____

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(Court address)

_____ ,		
Petitioner,		FINDINGS OF FACT AND
		CONCLUSIONS OF LAW
vs.		
_____ ,		Case No.
Respondent,		Judge _____

Respondent was regularly served and there is a return of service on file with the Court. The Court found that _____ had been properly served with _____'s Petition to Modify Decree of Divorce but had failed to answer. The Court found that the time to answer had passed. The Court entered _____'s default.

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

FINDINGS OF FACT

_____.

CONCLUSIONS OF LAW

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

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

DATED this ____ day of _____.

BY THE COURT

THE HONORABLE JUDGE _____
DISTRICT COURT JUDGE _____

Certificate of Mailing

On this ____ day of _____, a true and correct copy of the foregoing document was hand delivered or mailed, with all needed postage prepaid, to Respondent at:

_____.

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY
STATE OF UTAH
(Court address)

_____,

Petitioner,

vs.

_____,

Respondent,

ORDER MODIFYING DIVORCE
DECREE

Case No.

Judge _____

The Respondent was regularly served but failed to appear in person or otherwise file responsive pleadings and the Court therefore enters the Respondent's default.

The Court orders the following modifications of the decree of divorce:

_____.

DATED this ____ day of _____.

BY THE COURT

THE HONORABLE JUDGE _____
DISTRICT COURT JUDGE

Certificate of Mailing

On this ____ day of _____, a true and correct copy of the foregoing document was hand delivered or mailed, with all needed postage prepaid, to Respondent at:

_____.

(attorney's name and bar number or petitioner's name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY
STATE OF UTAH
(Court address)

_____ ,		NOTICE OF ENTRY OF
Petitioner,		ORDER MODIFYING DECREE
		OF DIVORCE
vs.		
_____ ,		Case No.
Respondent,		Judge _____

Pursuant to Rule 58A(d) of the Utah Rules of Civil Procedure, all parties are hereby notified that on the ____ day of _____, an Order Modifying Decree of Divorce in the above-entitled matter was signed and entered by the court. A copy of the order is attached.

DATED this ____ day of _____.

Certificate of Mailing

On this ____ day of _____, a true and correct copy of the foregoing document was hand delivered or mailed, with all needed postage prepaid, to Respondent at:

_____.

Appendix 12: Sample Alternative Dispute Resolution Documents

Sample Referral

(attorney’s name and bar number or petitioner’s name)
(street address)
(city, state, and zip code)
(phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY
STATE OF UTAH
(court’s address)

_____ ,		ALTERNATIVE DISPUTE
		RESOLUTION
Petitioner,		REFERRAL NOTICE
vs.		
_____ ,		Case No. _____
Respondent,		Judge _____

The above matter will be mediated/arbitrated (circle one). The mediation/arbitration will begin on or about _____. We anticipate that the mediation/arbitration will be concluded on or about _____.

DATED this ____ day of _____.

Signature of Party

Signature of Counsel

Sample Deferral

IN THE _____ DISTRICT COURT OF _____ COUNTY

STATE OF UTAH

(court's address)

_____, Petitioner, vs. _____, Respondent,		STATEMENT OF DEFERRAL OF ADR PROGRAM Case No. _____ Judge _____
---	--	--

I have reviewed the videotape and have, if I am represented by counsel, discussed proceeding under the ADR program with my counsel. I believe that participation in the ADR program should be deferred. I agree to address the usefulness of ADR in resolving this case no later than the first pre-trial conference. I certify that I mailed a true and correct copy of this statement to the other parties in this action.

DATED this _____ day of _____.

Signature of Party

Signature of Counsel

Sample Mediation Disposition Notice

(attorney or petitioner's name, address, and phone number)

IN THE _____ DISTRICT COURT OF _____ COUNTY
STATE OF UTAH
(court's address)

_____ ,		
		ALTERNATIVE DISPUTE
Petitioner,		RESOLUTION
vs.		DISPOSITION NOTICE
_____ ,		Case No. _____
		Judge _____
Respondent,		

The above matter was mediated/arbitrated (circle one) by _____
(mediator/arbitrator). The case was settled / not settled / partially settled (circle one).

DATED this _____ day of _____.

Signature of Counsel

Sample Agreement to Mediate

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

1. We agree to sincerely attempt to resolve the issues by fully and genuinely searching for fair and workable solutions.
2. We agree to be honest and to completely disclose all relevant information and legally discoverable documents with the other party and the mediator.
3. We agree to be courteous throughout the sessions.
4. We understand that the mediator is a neutral third party whose only purpose is to promote communication and help the parties reach an understanding as to how the issues will be resolved.
5. We understand that it is our obligation to seek independent legal, accounting, and other professional advice and assistance (e.g., having an attorney prepare the actual court papers).
6. The mediator will not reveal anything discussed in the mediation, other than (a) the mediation agreement, (b) incidents of abuse, or (c) threats of violence, without the permission of both parties. The parties agree that they will never subpoena the mediator as a witness or subpoena and documents of the mediator in any legal or administrative proceeding concerning this dispute. They further agree to reimburse the mediator for any expenses he incurs in any action to quash such subpoenas.
7. We agree that either party may, upon the consent of both parties, hold private sessions with the mediator at their or the mediator's request. Except for concealment of assets and matters which the mediator is legally bound to disclose, the parties may specify what will remain confidential from these private sessions.
8. Either party or the mediator may terminate mediation at any time.
9. We agree to be on time.

Signature

Date

Signature

Date

Sample Memorandum of Understanding

We, _____ accept this document as an expression of our mutual understanding of our rights and obligations to one another and with regard to our children upon the termination of our marriage.

We represent, acknowledge, and agree to the following facts, assumptions, representations, and commitments.

We have ___ children: _____.

_____ is employed by _____ at an income rate of _____ per month. _____ is employed by _____ at an income rate of _____ per month.

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

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

We agree to the following in regard to child support

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

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

We agree to the following regarding alimony: _____.

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

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

We agree to the following regarding our attorney fees: _____.

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

We acknowledge that we have been advised to and have had time to seek independent legal and other professional advice regarding this Memorandum of Understanding.

We agree that we have fully informed and advised the other party of our property and estate.

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

Appendix 13: Official Child Support Tables, Worksheets, Child Support Obligation Worksheet Required Location Information, and Order/Notice to Withhold Income for Child Support

CHILD SUPPORT TECHNICAL AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gregory S. Bell

House Sponsor: Lorie D. Fowlke

LONG TITLE

General Description:

This bill makes technical and clarifying amendments to child support orders.

Highlighted Provisions:

This bill:

- ▶ clarifies that certain child support tables shall be used for a modification of final orders made on or before December 31, 2009; and
- ▶ provides that other child support tables shall be used to:
 - modify temporary orders established on or before December 31, 2007, if the new order is entered on or after January 1, 2008; or
 - modify a final order entered on or before December 31, 2007, if the modification is made on or after January 1, 2010.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

Utah Code Sections Affected:

AMENDS:

78B-12-301, as renumbered and amended by Laws of Utah 2008, Chapter 3

78B-12-302, as enacted by Laws of Utah 2008, Chapter 3

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

Section 1. Section **78B-12-301** is amended to read:

S.B. 198**Enrolled Copy**30 **78B-12-301. Base combined child support obligation table -- Both parents.**

31 (1) If a child support order is established or modified on or before December 31, 2007,
 32 the table in this Subsection (1) shall be used for a modification of a final order to that order
 33 made on or before December 31, 2009.

34 **Monthly Combined**

35 Adj. Gross Income		35 Number of Children					
36		36 1	36 2	36 3	36 4	36 5	36 6
37 From	37 To						
38 650 -	38 675	38 99	38 184	38 191	38 198	38 200	38 201
39 676 -	39 700	39 103	39 190	39 198	39 205	39 207	39 209
40 701 -	40 725	40 106	40 197	40 205	40 212	40 214	40 216
41 726 -	41 750	41 110	41 204	41 212	41 220	41 221	41 223
42 751 -	42 775	42 113	42 211	42 219	42 227	42 229	42 231
43 776 -	43 800	43 117	43 218	43 226	43 234	43 236	43 238
44 801 -	44 825	44 121	44 224	44 243	44 261	44 263	44 265
45 826 -	45 850	45 124	45 231	45 253	45 275	45 277	45 279
46 851 -	46 875	46 128	46 238	46 263	46 289	46 291	46 294
47 876 -	47 900	47 132	47 245	47 274	47 303	47 305	47 308
48 901 -	48 925	48 135	48 251	48 284	48 316	48 319	48 322
49 926 -	49 950	49 139	49 258	49 294	49 330	49 333	49 336
50 951 -	50 975	50 143	50 265	50 305	50 344	50 347	50 350
51 976 -	51 1,000	51 146	51 272	51 315	51 358	51 361	51 364
52 1,001 -	52 1,050	52 154	52 285	52 335	52 385	52 389	52 393
53 1,051 -	53 1,100	53 161	53 299	53 356	53 413	53 417	53 421
54 1,101 -	54 1,150	54 168	54 313	54 377	54 441	54 444	54 449
55 1,151 -	55 1,200	55 176	55 326	55 387	55 449	55 454	55 460
56 1,201 -	56 1,250	56 183	56 340	56 403	56 465	56 475	56 484
57 1,251 -	57 1,300	57 190	57 353	57 418	57 482	57 496	57 508

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58	1,301 - 1,350	198	367	433	499	516	532
59	1,351 - 1,400	205	381	448	515	537	556
60	1,401 - 1,450	212	394	463	532	558	580
61	1,451 - 1,500	220	408	478	549	579	605
62	1,501 - 1,550	227	421	493	565	600	629
63	1,551 - 1,600	234	435	509	582	620	653
64	1,601 - 1,650	242	449	524	599	641	677
65	1,651 - 1,700	249	462	539	615	662	701
66	1,701 - 1,750	256	476	554	632	683	725
67	1,751 - 1,800	264	489	569	649	704	749
68	1,801 - 1,850	271	503	584	664	723	771
69	1,851 - 1,900	278	517	597	677	736	786
70	1,901 - 1,950	286	530	610	690	750	800
71	1,951 - 2,000	293	544	622	700	752	813
72	2,001 - 2,100	308	571	643	716	779	833
73	2,101 - 2,200	319	592	666	741	807	862
74	2,201 - 2,300	328	608	687	766	835	891
75	2,301 - 2,400	336	625	708	791	862	921
76	2,401 - 2,500	345	641	725	809	882	942
77	2,501 - 2,600	354	658	746	834	909	972
78	2,601 - 2,700	362	674	767	859	937	1,001
79	2,701 - 2,800	371	691	788	885	964	1,031
80	2,801 - 2,900	380	707	809	910	992	1,060
81	2,901 - 3,000	388	724	830	936	1,020	1,090
82	3,001 - 3,100	397	740	851	962	1,048	1,120
83	3,101 - 3,200	406	756	872	987	1,076	1,149
84	3,201 - 3,300	414	773	893	1,013	1,103	1,179
85	3,301 - 3,400	423	789	914	1,039	1,131	1,208

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86	3,401 - 3,500	431	804	934	1,064	1,159	1,238
87	3,501 - 3,600	438	817	953	1,090	1,187	1,268
88	3,601 - 3,700	444	830	973	1,116	1,215	1,297
89	3,701 - 3,800	451	843	992	1,141	1,243	1,327
90	3,801 - 3,900	458	856	1,012	1,167	1,270	1,356
91	3,901 - 4,000	465	870	1,031	1,192	1,297	1,386
92	4,001 - 4,100	472	883	1,050	1,217	1,325	1,415
93	4,101 - 4,200	479	896	1,069	1,242	1,352	1,444
94	4,201 - 4,300	486	909	1,088	1,267	1,379	1,474
95	4,301 - 4,400	493	923	1,107	1,292	1,407	1,503
96	4,401 - 4,500	499	936	1,131	1,326	1,443	1,541
97	4,501 - 4,600	506	949	1,150	1,350	1,470	1,570
98	4,601 - 4,700	513	962	1,169	1,375	1,498	1,600
99	4,701 - 4,800	520	975	1,188	1,400	1,525	1,629
100	4,801 - 4,900	527	989	1,207	1,425	1,552	1,658
101	4,901 - 5,000	534	1,002	1,226	1,450	1,580	1,687
102	5,001 - 5,100	541	1,015	1,245	1,475	1,607	1,717
103	5,101 - 5,200	547	1,028	1,264	1,500	1,634	1,746
104	5,201 - 5,300	554	1,042	1,282	1,522	1,658	1,772
105	5,301 - 5,400	561	1,055	1,300	1,544	1,682	1,797
106	5,401 - 5,500	568	1,068	1,317	1,566	1,706	1,823
107	5,501 - 5,600	575	1,081	1,335	1,588	1,730	1,848
108	5,601 - 5,700	582	1,093	1,351	1,610	1,754	1,874
109	5,701 - 5,800	586	1,103	1,367	1,632	1,778	1,899
110	5,801 - 5,900	591	1,112	1,383	1,653	1,802	1,925
111	5,901 - 6,000	596	1,122	1,398	1,675	1,826	1,950
112	6,001 - 6,100	601	1,131	1,414	1,697	1,850	1,976
113	6,101 - 6,200	605	1,141	1,430	1,719	1,874	2,001

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114	6,201 - 6,300	610	1,150	1,445	1,740	1,897	2,026
115	6,301 - 6,400	615	1,159	1,461	1,762	1,921	2,052
116	6,401 - 6,500	620	1,169	1,480	1,791	1,951	2,084
117	6,501 - 6,600	624	1,178	1,495	1,812	1,975	2,109
118	6,601 - 6,700	629	1,188	1,511	1,834	1,998	2,134
119	6,701 - 6,800	629	1,188	1,511	1,834	1,998	2,134
120	6,801 - 6,900	673	1,188	1,511	1,834	1,998	2,134
121	6,901 - 7,000	680	1,188	1,511	1,834	1,998	2,134
122	7,001 - 7,100	687	1,188	1,511	1,834	1,998	2,134
123	7,101 - 7,200	694	1,188	1,511	1,834	1,998	2,134
124	7,201 - 7,300	701	1,188	1,520	1,834	1,998	2,134
125	7,301 - 7,400	706	1,189	1,531	1,834	1,998	2,134
126	7,401 - 7,500	710	1,197	1,541	1,834	1,998	2,134
127	7,501 - 7,600	715	1,205	1,551	1,834	1,998	2,134
128	7,601 - 7,700	719	1,213	1,562	1,834	1,998	2,134
129	7,701 - 7,800	723	1,220	1,572	1,834	1,998	2,134
130	7,801 - 7,900	728	1,228	1,582	1,834	1,998	2,137
131	7,901 - 8,000	732	1,236	1,592	1,834	2,000	2,150
132	8,001 - 8,100	737	1,244	1,603	1,834	2,013	2,164
133	8,101 - 8,200	741	1,252	1,613	1,841	2,026	2,178
134	8,201 - 8,300	746	1,259	1,623	1,853	2,039	2,192
135	8,301 - 8,400	750	1,267	1,633	1,864	2,052	2,206
136	8,401 - 8,500	755	1,275	1,644	1,876	2,064	2,220
137	8,501 - 8,600	759	1,283	1,654	1,887	2,077	2,234
138	8,601 - 8,700	763	1,291	1,664	1,899	2,090	2,247
139	8,701 - 8,800	768	1,298	1,675	1,911	2,103	2,261
140	8,801 - 8,900	772	1,306	1,685	1,922	2,116	2,275
141	8,901 - 9,000	777	1,314	1,695	1,934	2,129	2,289

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142	9,001 - 9,100	781	1,322	1,705	1,945	2,141	2,303
143	9,101 - 9,200	786	1,330	1,716	1,957	2,154	2,317
144	9,201 - 9,300	790	1,337	1,726	1,969	2,167	2,330
145	9,301 - 9,400	795	1,345	1,736	1,980	2,180	2,344
146	9,401 - 9,500	799	1,353	1,747	1,992	2,193	2,358
147	9,501 - 9,600	803	1,361	1,757	2,003	2,206	2,372
148	9,601 - 9,700	808	1,369	1,767	2,015	2,218	2,386
149	9,701 - 9,800	812	1,376	1,777	2,027	2,231	2,400
150	9,801 - 9,900	817	1,384	1,788	2,038	2,244	2,414
151	9,901 - 10,000	821	1,392	1,798	2,050	2,257	2,427
152	10,001 - 10,100	826	1,400	1,808	2,061	2,270	2,441

153 (2) The table in this Subsection (2) shall be used to:

154 (a) establish a child support order entered for the first time on or after January 1, 2008;

155 (b) modify a child support order entered for the first time on or after January 1, 2008;

156 [or]

157 (c) modify a temporary judicial child support order established on or before December
 158 31, 2007, if the new order is entered on or after January 1, 2008; or

159 [(c)] (d) modify a final child support order entered on or before December 31, 2007, if
 160 the modification is made on or after January 1, 2010.

161 Monthly Combined

162 Adj. Gross Income		162 Number of Children					
163		1	2	3	4	5	6
164 From	164 To						
165 726 -	165 750	138	245	286	319	351	382
166 751 -	166 775	141	252	294	328	360	392
167 776 -	167 800	146	259	301	336	370	402
168 801 -	168 825	151	265	309	345	379	412
169 826 -	169 850	155	272	317	353	389	423

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170	851 - 875	160	279	324	362	398	433
171	876 - 900	165	285	332	370	407	443
172	901 - 925	169	292	340	379	417	453
173	926 - 950	174	299	348	387	426	464
174	951 - 975	179	305	355	396	436	474
175	976 - 1,000	183	312	363	405	445	484
176	1,001 - 1,050	193	322	374	417	459	500
177	1,051 - 1,100	201	335	390	435	478	520
178	1,101 - 1,150	210	348	405	452	497	541
179	1,151 - 1,200	220	362	420	469	516	561
180	1,201 - 1,250	229	375	436	486	535	582
181	1,251 - 1,300	238	388	451	503	553	602
182	1,301 - 1,350	248	401	467	520	572	623
183	1,351 - 1,400	256	414	481	536	590	642
184	1,401 - 1,450	265	426	495	552	607	661
185	1,451 - 1,500	275	438	510	568	625	680
186	1,501 - 1,550	284	451	524	584	643	699
187	1,551 - 1,600	293	463	538	600	660	718
188	1,601 - 1,650	303	476	553	616	678	737
189	1,651 - 1,700	311	488	567	632	695	757
190	1,701 - 1,750	320	500	581	648	713	776
191	1,751 - 1,800	330	513	596	664	731	795
192	1,801 - 1,850	339	525	610	680	748	814
193	1,851 - 1,900	348	538	624	696	766	833
194	1,901 - 1,950	358	550	638	712	783	852
195	1,951 - 2,000	366	562	652	727	800	870
196	2,001 - 2,100	385	580	673	750	825	898
197	2,101 - 2,200	399	604	701	781	859	935

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198	2,201 - 2,300	410	628	728	812	893	972
199	2,301 - 2,400	420	652	756	843	927	1,009
200	2,401 - 2,500	431	676	784	874	961	1,046
201	2,501 - 2,600	443	700	811	904	995	1,082
202	2,601 - 2,700	453	723	838	934	1,028	1,118
203	2,701 - 2,800	464	747	865	964	1,060	1,154
204	2,801 - 2,900	475	770	891	994	1,093	1,189
205	2,901 - 3,000	485	794	918	1,024	1,126	1,225
206	3,001 - 3,100	496	817	945	1,054	1,159	1,261
207	3,101 - 3,200	508	838	970	1,081	1,189	1,294
208	3,201 - 3,300	518	859	994	1,108	1,219	1,326
209	3,301 - 3,400	529	881	1,018	1,135	1,248	1,358
210	3,401 - 3,500	539	902	1,042	1,162	1,278	1,391
211	3,501 - 3,600	548	923	1,066	1,189	1,308	1,423
212	3,601 - 3,700	555	944	1,090	1,216	1,337	1,455
213	3,701 - 3,800	564	965	1,115	1,243	1,367	1,487
214	3,801 - 3,900	573	985	1,138	1,269	1,396	1,519
215	3,901 - 4,000	581	1,004	1,160	1,294	1,423	1,548
216	4,001 - 4,100	590	1,024	1,182	1,318	1,450	1,577
217	4,101 - 4,200	599	1,043	1,204	1,342	1,477	1,607
218	4,201 - 4,300	608	1,062	1,226	1,367	1,503	1,636
219	4,301 - 4,400	616	1,081	1,248	1,391	1,530	1,665
220	4,401 - 4,500	624	1,101	1,270	1,416	1,557	1,694
221	4,501 - 4,600	633	1,119	1,291	1,439	1,583	1,722
222	4,601 - 4,700	641	1,133	1,306	1,456	1,601	1,742
223	4,701 - 4,800	650	1,147	1,321	1,473	1,620	1,762
224	4,801 - 4,900	659	1,161	1,336	1,489	1,638	1,783
225	4,901 - 5,000	668	1,175	1,351	1,506	1,657	1,803

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226	5,001 - 5,100	676	1,189	1,366	1,523	1,675	1,823
227	5,101 - 5,200	684	1,203	1,381	1,540	1,694	1,843
228	5,201 - 5,300	693	1,217	1,396	1,557	1,712	1,863
229	5,301 - 5,400	701	1,227	1,408	1,570	1,726	1,878
230	5,401 - 5,500	710	1,238	1,419	1,582	1,741	1,894
231	5,501 - 5,600	719	1,248	1,431	1,595	1,755	1,909
232	5,601 - 5,700	728	1,259	1,442	1,608	1,769	1,925
233	5,701 - 5,800	733	1,269	1,454	1,621	1,783	1,940
234	5,801 - 5,900	739	1,280	1,465	1,634	1,797	1,956
235	5,901 - 6,000	745	1,290	1,477	1,647	1,812	1,971
236	6,001 - 6,100	751	1,302	1,490	1,661	1,827	1,988
237	6,101 - 6,200	756	1,313	1,503	1,676	1,843	2,005
238	6,201 - 6,300	763	1,325	1,516	1,690	1,859	2,023
239	6,301 - 6,400	769	1,336	1,528	1,704	1,874	2,039
240	6,401 - 6,500	775	1,347	1,540	1,717	1,889	2,055
241	6,501 - 6,600	780	1,358	1,553	1,731	1,904	2,072
242	6,601 - 6,700	786	1,369	1,565	1,745	1,919	2,088
243	6,701 - 6,800	786	1,380	1,577	1,759	1,934	2,105
244	6,801 - 6,900	841	1,391	1,590	1,772	1,950	2,121
245	6,901 - 7,000	850	1,402	1,602	1,786	1,965	2,138
246	7,001 - 7,100	859	1,413	1,614	1,800	1,980	2,154
247	7,101 - 7,200	868	1,417	1,618	1,804	1,985	2,159
248	7,201 - 7,300	876	1,420	1,621	1,807	1,988	2,163
249	7,301 - 7,400	883	1,423	1,624	1,811	1,992	2,167
250	7,401 - 7,500	888	1,426	1,627	1,814	1,996	2,171
251	7,501 - 7,600	894	1,429	1,630	1,818	1,999	2,175
252	7,601 - 7,700	899	1,432	1,633	1,821	2,003	2,179
253	7,701 - 7,800	904	1,436	1,636	1,824	2,007	2,184

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254	7,801 - 7,900	910	1,439	1,639	1,828	2,011	2,188
255	7,901 - 8,000	915	1,442	1,642	1,831	2,014	2,192
256	8,001 - 8,100	921	1,445	1,646	1,835	2,018	2,196
257	8,101 - 8,200	926	1,448	1,649	1,838	2,022	2,200
258	8,201 - 8,300	933	1,451	1,652	1,842	2,026	2,204
259	8,301 - 8,400	938	1,454	1,655	1,845	2,029	2,208
260	8,401 - 8,500	944	1,460	1,661	1,852	2,037	2,216
261	8,501 - 8,600	949	1,475	1,678	1,871	2,058	2,240
262	8,601 - 8,700	954	1,491	1,696	1,891	2,080	2,263
263	8,701 - 8,800	960	1,506	1,714	1,911	2,102	2,287
264	8,801 - 8,900	965	1,522	1,732	1,931	2,124	2,311
265	8,901 - 9,000	971	1,537	1,749	1,951	2,146	2,334
266	9,001 - 9,100	976	1,553	1,767	1,970	2,167	2,358
267	9,101 - 9,200	983	1,568	1,785	1,990	2,189	2,382
268	9,201 - 9,300	988	1,584	1,803	2,010	2,211	2,405
269	9,301 - 9,400	994	1,599	1,820	2,030	2,233	2,429
270	9,401 - 9,500	999	1,614	1,838	2,049	2,254	2,453
271	9,501 - 9,600	1,004	1,630	1,856	2,069	2,276	2,477
272	9,601 - 9,700	1,010	1,645	1,874	2,089	2,298	2,500
273	9,701 - 9,800	1,015	1,661	1,891	2,109	2,320	2,524
274	9,801 - 9,900	1,021	1,673	1,905	2,124	2,336	2,542
275	9,901 - 10,000	1,026	1,683	1,917	2,137	2,351	2,557
276	10,001 - 10,100	1,033	1,694	1,928	2,150	2,365	2,573
277	10,101 - 10,200	1,039	1,704	1,940	2,163	2,379	2,589
278	10,201 - 10,300	1,045	1,715	1,951	2,176	2,394	2,604
279	10,301 - 10,400	1,051	1,725	1,963	2,189	2,408	2,620
280	10,401 - 10,500	1,058	1,736	1,975	2,202	2,422	2,635
281	10,501 - 10,600	1,064	1,746	1,986	2,215	2,436	2,651

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282	10,601 - 10,700	1,070	1,757	1,998	2,228	2,451	2,666
283	10,701 - 10,800	1,077	1,767	2,010	2,241	2,465	2,682
284	10,801 - 10,900	1,083	1,778	2,021	2,254	2,479	2,697
285	10,901 - 11,000	1,090	1,788	2,033	2,267	2,494	2,713
286	11,001 - 11,100	1,096	1,799	2,045	2,280	2,508	2,729
287	11,101 - 11,200	1,103	1,809	2,056	2,293	2,522	2,744
288	11,201 - 11,300	1,109	1,820	2,068	2,306	2,537	2,760
289	11,301 - 11,400	1,116	1,830	2,080	2,319	2,551	2,775
290	11,401 - 11,500	1,123	1,841	2,091	2,332	2,565	2,791
291	11,501 - 11,600	1,129	1,851	2,103	2,345	2,579	2,806
292	11,601 - 11,700	1,136	1,862	2,115	2,358	2,594	2,822
293	11,701 - 11,800	1,143	1,872	2,126	2,371	2,608	2,838
294	11,801 - 11,900	1,150	1,882	2,138	2,383	2,622	2,852
295	11,901 - 12,000	1,157	1,892	2,148	2,395	2,635	2,867
296	12,001 - 12,100	1,164	1,901	2,159	2,407	2,648	2,881
297	12,101 - 12,200	1,171	1,910	2,170	2,419	2,661	2,895
298	12,201 - 12,300	1,178	1,919	2,180	2,431	2,674	2,910
299	12,301 - 12,400	1,185	1,929	2,191	2,443	2,687	2,924
300	12,401 - 12,500	1,192	1,938	2,202	2,455	2,700	2,938
301	12,501 - 12,600	1,199	1,947	2,212	2,467	2,714	2,952
302	12,601 - 12,700	1,206	1,956	2,223	2,479	2,727	2,967
303	12,701 - 12,800	1,213	1,966	2,234	2,491	2,740	2,981
304	12,801 - 12,900	1,220	1,975	2,245	2,503	2,753	2,995
305	12,901 - 13,000	1,227	1,984	2,255	2,514	2,766	3,009
306	13,001 - 13,100	1,233	1,993	2,265	2,525	2,778	3,022
307	13,101 - 13,200	1,239	2,001	2,275	2,536	2,790	3,035
308	13,201 - 13,300	1,245	2,010	2,285	2,547	2,802	3,049
309	13,301 - 13,400	1,250	2,018	2,294	2,558	2,814	3,062

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310	13,401 - 13,500	1,256	2,027	2,304	2,569	2,826	3,075
311	13,501 - 13,600	1,262	2,035	2,314	2,580	2,838	3,088
312	13,601 - 13,700	1,267	2,044	2,324	2,591	2,850	3,101
313	13,701 - 13,800	1,273	2,052	2,334	2,602	2,862	3,114
314	13,801 - 13,900	1,279	2,061	2,344	2,613	2,875	3,127
315	13,901 - 14,000	1,284	2,069	2,354	2,624	2,887	3,141
316	14,001 - 14,100	1,290	2,078	2,363	2,635	2,899	3,154
317	14,101 - 14,200	1,296	2,087	2,373	2,646	2,911	3,167
318	14,201 - 14,300	1,301	2,095	2,383	2,657	2,923	3,180
319	14,301 - 14,400	1,306	2,104	2,393	2,668	2,935	3,193
320	14,401 - 14,500	1,312	2,112	2,403	2,679	2,947	3,206
321	14,501 - 14,600	1,317	2,121	2,413	2,690	2,959	3,220
322	14,601 - 14,700	1,323	2,129	2,423	2,701	2,971	3,233
323	14,701 - 14,800	1,329	2,138	2,432	2,712	2,983	3,246
324	14,801 - 14,900	1,334	2,146	2,442	2,723	2,995	3,259
325	14,901 - 15,000	1,340	2,155	2,452	2,734	3,008	3,272
326	15,001 - 15,100	1,345	2,163	2,461	2,744	3,018	3,284
327	15,101 - 15,200	1,351	2,170	2,469	2,752	3,028	3,294
328	15,201 - 15,300	1,357	2,177	2,476	2,761	3,037	3,304
329	15,301 - 15,400	1,362	2,184	2,484	2,769	3,046	3,314
330	15,401 - 15,500	1,368	2,191	2,491	2,778	3,056	3,325
331	15,501 - 15,600	1,373	2,198	2,499	2,786	3,065	3,335
332	15,601 - 15,700	1,379	2,205	2,507	2,795	3,074	3,345
333	15,701 - 15,800	1,384	2,211	2,514	2,803	3,084	3,355
334	15,801 - 15,900	1,390	2,218	2,522	2,812	3,093	3,365
335	15,901 - 16,000	1,395	2,225	2,529	2,820	3,102	3,375
336	16,001 - 16,100	1,401	2,232	2,537	2,829	3,112	3,385
337	16,101 - 16,200	1,407	2,239	2,545	2,837	3,121	3,396

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338	16,201 - 16,300	1,412	2,246	2,552	2,846	3,130	3,406
339	16,301 - 16,400	1,418	2,253	2,560	2,854	3,140	3,416
340	16,401 - 16,500	1,423	2,260	2,567	2,863	3,149	3,426
341	16,501 - 16,600	1,429	2,267	2,575	2,871	3,158	3,436
342	16,601 - 16,700	1,434	2,274	2,583	2,880	3,168	3,446
343	16,701 - 16,800	1,440	2,281	2,590	2,888	3,177	3,457
344	16,801 - 16,900	1,445	2,288	2,598	2,897	3,186	3,467
345	16,901 - 17,000	1,451	2,295	2,605	2,905	3,196	3,477
346	17,001 - 17,100	1,456	2,302	2,613	2,914	3,205	3,487
347	17,101 - 17,200	1,462	2,309	2,621	2,922	3,214	3,497
348	17,201 - 17,300	1,467	2,316	2,628	2,931	3,224	3,507
349	17,301 - 17,400	1,473	2,323	2,636	2,939	3,233	3,517
350	17,401 - 17,500	1,478	2,330	2,643	2,947	3,242	3,528
351	17,501 - 17,600	1,483	2,337	2,651	2,956	3,252	3,538
352	17,601 - 17,700	1,489	2,344	2,659	2,964	3,261	3,548
353	17,701 - 17,800	1,494	2,351	2,666	2,973	3,270	3,558
354	17,801 - 17,900	1,499	2,358	2,674	2,981	3,280	3,568
355	17,901 - 18,000	1,505	2,365	2,682	2,990	3,289	3,578
356	18,001 - 18,100	1,510	2,372	2,689	2,998	3,298	3,588
357	18,101 - 18,200	1,516	2,379	2,697	3,007	3,308	3,599
358	18,201 - 18,300	1,520	2,386	2,704	3,015	3,317	3,609
359	18,301 - 18,400	1,525	2,392	2,712	3,024	3,326	3,619
360	18,401 - 18,500	1,530	2,399	2,720	3,032	3,336	3,629
361	18,501 - 18,600	1,535	2,406	2,727	3,041	3,345	3,639
362	18,601 - 18,700	1,540	2,413	2,735	3,049	3,354	3,649
363	18,701 - 18,800	1,545	2,420	2,742	3,058	3,364	3,659
364	18,801 - 18,900	1,550	2,427	2,750	3,066	3,373	3,670
365	18,901 - 19,000	1,555	2,434	2,758	3,075	3,382	3,680

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366	19,001 - 19,100	1,560	2,441	2,765	3,083	3,391	3,690
367	19,101 - 19,200	1,565	2,448	2,773	3,092	3,401	3,700
368	19,201 - 19,300	1,570	2,455	2,780	3,100	3,410	3,710
369	19,301 - 19,400	1,575	2,462	2,788	3,109	3,419	3,720
370	19,401 - 19,500	1,580	2,469	2,796	3,117	3,429	3,731
371	19,501 - 19,600	1,585	2,476	2,803	3,126	3,438	3,741
372	19,601 - 19,700	1,590	2,483	2,811	3,134	3,447	3,751
373	19,701 - 19,800	1,595	2,490	2,818	3,143	3,457	3,761
374	19,801 - 19,900	1,600	2,497	2,826	3,151	3,466	3,771
375	19,901 - 20,000	1,605	2,504	2,834	3,159	3,475	3,781
376	20,001 - 22,000	1,766	2,754	3,117	3,475	3,822	4,159
377	22,001 - 24,000	1,926	3,005	3,401	3,791	4,170	4,537
378	24,001 - 26,000	2,087	3,255	3,684	4,107	4,518	4,915
379	26,001 - 28,000	2,247	3,506	3,968	4,423	4,865	5,293
380	28,001 - 30,000	2,408	3,756	4,251	4,739	5,213	5,672
381	30,001 - 32,000	2,508	3,916	4,451	4,979	5,473	5,952
382	32,001 - 34,000	2,608	4,076	4,651	5,219	5,733	6,232
383	34,001 - 36,000	2,708	4,236	4,851	5,459	5,993	6,512
384	36,001 - 38,000	2,808	4,396	5,051	5,699	6,253	6,792
385	38,001 - 40,000	2,908	4,556	5,251	5,939	6,513	7,072
386	40,001 - 42,000	3,008	4,716	5,451	6,179	6,773	7,352
387	42,001 - 44,000	3,108	4,876	5,651	6,419	7,033	7,632
388	44,001 - 46,000	3,208	5,036	5,851	6,659	7,293	7,912
389	46,001 - 48,000	3,308	5,196	6,051	6,899	7,553	8,192
390	48,001 - 50,000	3,408	5,356	6,251	7,139	7,813	8,472
391	50,001 - 52,000	3,508	5,476	6,391	7,299	7,993	8,672
392	52,001 - 54,000	3,608	5,596	6,531	7,459	8,173	8,872
393	54,001 - 56,000	3,708	5,716	6,671	7,619	8,353	9,072

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394	56,001 - 58,000	3,808	5,836	6,811	7,779	8,533	9,272
395	58,001 - 60,000	3,908	5,956	6,951	7,939	8,713	9,472
396	60,001 - 62,000	4,008	6,076	7,091	8,099	8,893	9,672
397	62,001 - 64,000	4,108	6,196	7,231	8,259	9,073	9,872
398	64,001 - 66,000	4,208	6,316	7,371	8,419	9,253	10,072
399	66,001 - 68,000	4,308	6,436	7,511	8,579	9,433	10,272
400	68,001 - 70,000	4,408	6,556	7,651	8,739	9,613	10,472
401	70,001 - 72,000	4,508	6,676	7,791	8,899	9,793	10,672
402	72,001 - 74,000	4,608	6,796	7,931	9,059	9,973	10,872
403	74,001 - 76,000	4,708	6,916	8,071	9,219	10,153	11,072
404	76,001 - 78,000	4,808	7,036	8,211	9,379	10,333	11,272
405	78,001 - 80,000	4,908	7,156	8,351	9,539	10,513	11,472
406	80,001 - 82,000	5,008	7,276	8,491	9,699	10,693	11,672
407	82,001 - 84,000	5,108	7,396	8,631	9,859	10,873	11,872
408	84,001 - 86,000	5,208	7,516	8,771	10,019	11,053	12,072
409	86,001 - 88,000	5,308	7,636	8,911	10,179	11,233	12,272
410	88,001 - 90,000	5,408	7,756	9,051	10,339	11,413	12,472
411	90,001 - 92,000	5,508	7,876	9,191	10,499	11,593	12,672
412	92,001 - 94,000	5,608	7,996	9,331	10,659	11,773	12,872
413	94,001 - 96,000	5,708	8,116	9,471	10,819	11,953	13,072
414	96,001 - 98,000	5,808	8,236	9,611	10,979	12,133	13,272
415	98,001 - 100,000	5,908	8,356	9,751	11,139	12,313	13,472

416 Section 2. Section **78B-12-302** is amended to read:

417 **78B-12-302. Low income table -- Obligor parent only.**

418 (1) If a child support order is established or modified on or before December 31, 2007,
419 the table in this Subsection (1) shall be used for a modification of a final order to that order
420 made on or before December 31, 2009.

421 Monthly Adj.

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		1	2	3	4	5	6
450							
451	From To						
452	0 - 649	30	30	30	30	30	30
453	650 - 675	30	30	30	30	31	31
454	676 - 700	58	60	60	61	61	62
455	701 - 725	88	88	90	91	92	92
456	726 - 750	117	118	119	120	122	123
457	751 - 775		148	149	151	153	155
458	776 - 800		178	179	182	183	186
459	801 - 825		207	209	212	214	216
460	826 - 850		236	239	242	244	247
461	851 - 875		266	269	272	275	278
462	876 - 900			299	303	305	309
463	901 - 925			329	333	337	339
464	926 - 950				363	366	370
465	951 - 975				393	398	402
466	976 - 1,000					428	433
467	1,001 - 1,050						494

468 Section 3. **Effective date.**

469 If approved by two-thirds of all the members elected to each house, this bill takes effect
 470 upon approval by the governor, or the day following the constitutional time limit of Utah
 471 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
 472 the date of veto override.

_____ vs. _____	<p>CHILD SUPPORT OBLIGATION WORKSHEET (SOLE CUSTODY AND PATERNITY)</p> <p>Civil No. _____</p>
The Combined Child Support Obligation Table used for calculation is: () 78-45-7.14(1) () 78-45-7.14(2) <i>Effective Jan. 1, 2008</i>	

	MOTHER	FATHER	COMBINED
1. Enter the # of natural and adopted children of this mother and father for whom support is to be awarded.			
2a. Enter the father's and mother's gross monthly income. Refer to Instructions for definition of income.	\$	\$	
2b. Enter previously ordered alimony that is actually paid. (Do not enter alimony ordered for this case).	-	-	
2c. Enter previously ordered child support. (Do not enter obligations ordered for the children in Line 1).	-	-	
2d. OPTIONAL: Enter the amount from Line 12 of the Children in Present Home Worksheet for either parent.	-	-	
3. Subtract Lines 2b, 2c, and 2d from 2a. This is the Adjusted Gross Income for child support purposes.	\$	\$	\$
4. Take the COMBINED figure in Line 3 and the number of children in Line 1 to the Support Table. Find the Base Combined Support Obligation. Enter it here.			\$
5. Divide each parent's adjusted monthly gross in Line 3 by the COMBINED adjusted monthly gross in Line 3.	%	%	
6. Multiply Line 4 by Line 5 for each parent to obtain each parent's share of the Base Support Obligation.	\$	\$	

7. BASE CHILD SUPPORT AWARD: Bring down the amount(s) from Line 6 or enter the amount(s) from the Low Income table per U.C.A. 78-45-7.7. The parent(s) without physical custody of the child(ren) pay(s) the amount(s) all 12 months of the year.	\$	\$	
--	----	----	--

8. Which parent is the obligor? () Mother () Father () Both
9. Is the support award the same as the guideline amount in line 7? () Yes () No
 If NO, enter the amount(s) ordered: \$ _____ (Father) \$ _____ (Mother) and answer number 10.
10. What were the reasons stated by the court for the deviation?
 () property settlement
 () excessive debts of the marriage
 () absence of need of the custodial parent
 () other: _____

INSTRUCTIONS FOR THE SOLE CUSTODY WORKSHEET

Line 1. Enter the number of natural and adopted children of the mother and father for whom support is to be determined. Do not include any children of either parent by another partner on this line. If a child for whom support is to be determined is an unemancipated minor who does not live with his parents, use the total number of children, including the unemancipated minor, by that set of parents for Line 1.

Line 2a. Enter the mother's and father's gross monthly income. Definition of gross monthly income - prospective income from any source, salaries, wages, commissions, royalties, bonuses, rents, gifts, prizes, dividends, severance pay, pensions, interest, trust income, alimony from previous marriages, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment compensation, disability insurance benefits and payments for "non-means-tested" government programs. Income from earned sources is limited to the equivalent of one full time job. For self-employed parents, see UCA 78-45-7.5(4)(a) and (b).

Excluded from gross income are: cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program, benefits from: the housing subsidy program, the Job Training Partnership Act, S.S.I., S.S.D.I., Medicaid, Food Stamps, General Assistance, and other "means-tested" benefits received by a parent; earnings or benefits of a child who is subject to this award.

All income must be verified. Verification includes: year to date pay stubs, employer statements or records, the last year's tax return and documentation of non-earned income appropriate to the source.

Line 2b. Enter the amount of spousal support either parent is court ordered to pay and actually pays to another parent. Do not include alimony payments for this case. Alimony payments must be verified. Canceled checks or a statement from the recipient of the alimony may be accepted as verification.

Line 2c. Enter the amount of support either parent is court ordered to pay for children by another partner. Previously ordered support may include specifically ordered payments toward a child's medical expenses, child care, or child support. A copy of the order is required for verification.

Line 2d. 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 adjusting a child support award. Use the WORKSHEET TO DETERMINE FATHER'S OBLIGATION TO CHILDREN IN HIS PRESENT HOME and/or the WORKSHEET TO DETERMINE MOTHER'S OBLIGATION TO CHILDREN IN HER PRESENT HOME to compute the obligations of the respective parents for the additional children. Consideration of natural or adoptive children other than those in common to both parties may be applied to lessen an increase in the award, but may not be applied to justify a decrease in the award.

Line 3. If the obligor's income is over \$1,050 complete the calculation as directed. If the obligor's income is \$650 to \$1,050 then calculate the child support award using the "Combined Child Support Obligation Table" and the "Low Income Table". The child support award will be the lesser of the two amounts. Enter the lesser of the two amounts on line 7. If the obligor's income is \$649 or less, then refer to UCA 78-45-7.7(5).

Line 4. The amount on the "Combined Child Support Obligation Table" shows the amount BOTH parents combined should contribute for the support of their children.

Line 5. Calculate each parent's share of the amount in Line 4. as a percentage figure.

Line 6. Calculate each parent's share of the amount in Line 4 as a dollar amount.

Line 7. The Base Child Support Award is the amount the obligor pays to the obligee. This is the amount the parent(s) without physical custody of the child(ren) pays all 12 month(s) of the year. See the **Insurance Premium and Child Care Adjustment Worksheet** to determine how insurance premiums and child care expenses may change the amount the obligor pays to the obligee.

Lines 8 and 9. Complete lines 8 and 9.

Line 10. Complete Line 10 if the obligor will not be ordered to pay the guideline amount from either the "Combined Child Support Obligation Table", "Low Income Table" or in accordance with UCA 78-45-7.7.

IN THE _____ DISTRICT COURT

_____ COUNTY, STATE OF UTAH

<p style="text-align: center;">_____</p> <p style="text-align: center;">vs.</p> <p style="text-align: center;">_____</p> <p>The Combined Child Support Obligation Table used for calculation is: () 78-45-7.14(1) () 78-45-7.14(2) <i>Effective Jan. 1, 2008</i></p>	<p>CHILD SUPPORT OBLIGATION WORKSHEET (SPLIT CUSTODY)</p> <p>Civil No. _____</p>
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	MOTHER	FATHER	COMBINED
1. Enter the # of natural and adopted children of this mother and father for whom support is to be awarded.			
2. Divide the number of children with each parent by the combined number of children listed in Line 1.	%	%	
3a. Enter the father's and mother's gross monthly income. Refer to Instructions for definition of income.	\$	\$	
3b. Enter previously ordered alimony that is actually paid. (Do not enter alimony ordered for this case).	-	-	
3c. Enter previously ordered child support. (Do not enter obligations ordered for the children in Line 1).	-	-	
3d. OPTIONAL: Enter the amount from Line 12 of the Children in Present Home Worksheet for either parent.	-	-	
4. Subtract Lines 3b, 3c, and 3d from 3a. This is the Adjusted Gross Income for child support purposes.	\$	\$	\$
5. Take the COMBINED figure in Line 4 and the number of children in Line 1 to the Support Table. Find the Base Combined Support Obligation. Enter it here.			\$
6. Divide each parent's adjusted monthly gross in Line 4 by the COMBINED adjusted monthly gross in Line 4.	%	%	
7. Multiply Line 5 by Line 6 for each parent to obtain each parent's share of the Base Support Obligation.	\$	\$	
8. Multiply the mother's Line 7 by the father's Line 2. This is the mother's obligation to the father.	\$		
9. Multiply the father's Line 7 by the mother's Line 2. This is the father's obligation to the mother.		\$	

<p>10. BASE CHILD SUPPORT AWARD: Subtract the lesser amount (OBLIGEE'S) from the greater amount (OBLIGOR'S) of Lines 8 and 9. This is the amount the OBLIGOR pays to the obligee all 12 months of the year.</p>	<p>\$</p>
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11. Which parent is the obligor? () Mother () Father
12. Is the support award the same as the guideline amount in line 10? () Yes () No
If NO, enter the amount ordered: \$ _____, and answer number 13.
13. What were the reasons stated by the court for the deviation?
 property settlement
 excessive debts of the marriage
 absence of need of the custodial parent
 other: _____

Attorney Bar No. _____

INSTRUCTIONS FOR THE SPLIT CUSTODY WORKSHEET

Line 1. Enter the number of natural and adopted children of the mother and father for support is to be determined. Do not include any children of **either parent** by another partner this line. If a child for whom support is to be determined is an **unemancipated** minor who does not live with his parents, use the total number of children, including the unemancipated minor, by that set of parents for Line 1.

Line 2. Complete the computation as directed.

Line 3a. Enter the mother's and father's gross monthly income. Definition of gross monthly income - prospective income from any source, salaries, wages, commissions, royalties, bonuses, rents, gifts, prizes, dividends, severance pay, pensions, interest, trust income, alimony from previous marriages, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment compensation, disability insurance benefits and payments for "non-means-tested" government programs. Income from earned sources is limited to the equivalent of one full time job. For self-employed parents, see UCA 78-45-7.5(4)(a) and (b).

Excluded from gross income are: Aid to Families With Dependent Children (AFDC), benefits from: the housing subsidy program, the Job Training Partnership Act, S.S.I., Medicaid, Food Stamps, General Assistance, and other "means-tested" benefits received by a parent; earnings or benefits of a child who is subject to this award.

All income must be verified. Verification includes: year to date pay stubs, employer statements or records, the last year's tax return and documentation of non-earned income appropriate to the source.

Line 3b. Enter the amount of alimony either parent is court ordered to pay and actually pays to another parent. Do not include alimony payments for this case. Alimony payments must be verified. Cancelled checks or a statement from the recipient of the alimony may be accepted as verification.

Line 3c. Enter the amount of support either parent is court ordered to pay for children by another partner. Previously ordered support may include specifically ordered payments toward a child's medical expenses, child care, or child support. A copy of the order is required for verification.

Line 3d. 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 adjusting a child support award. Use the WORKSHEET TO DETERMINE FATHER'S OBLIGATION TO CHILDREN IN HIS PRESENT HOME and/or the WORKSHEET TO DETERMINE MOTHER'S OBLIGATION TO CHILDREN IN HER PRESENT HOME to compute the obligations of the respective parents for the additional children. Consideration of natural or adoptive children other than those in common to both parties may be applied to lessen an increase to an existing award, but may not be applied to justify a decrease in the award.

Line 4. Complete the calculation as directed.

Line 5. The amount on the "Combined Child Support Obligation Table" shows the amount BOTH parents combined should contribute for the support of their children.

Line 6. Each parent's share of the combined support obligation as a percentage figure.

Line 7. Each parent's share of the combined support obligation as a dollar figure.

Line 8. Complete the calculation as directed. This is the mother's obligation to the father.

Line 9. Complete the calculation as directed. This is the father's obligation to the mother.

Line 10. The Base Child Support Award is the amount the obligor pays to the obligee. See the Insurance **Premium and Child Care Adjustment Worksheet** to determine how insurance premiums and child care expenses may change the amount the obligor pays to the obligee.

Line 11. Designate which parent must pay support.

Line 12. Complete line 12 to indicate if the amount ordered deviates from the guideline amount in line 10. Complete line 13 if you deviated from the guideline amount.

IN THE _____ DISTRICT COURT

_____ COUNTY, STATE OF UTAH

<p>_____</p> <p>vs.</p> <p>_____</p> <p>The Combined Child Support Obligation Table used for calculation is: () 78-45-7.14(1) () 78-45-7.14(2) <i>Effective Jan. 1, 2008</i></p>	<p>CHILD SUPPORT OBLIGATION WORKSHEET (JOINT PHYSICAL CUSTODY)</p> <p>Civil No. _____</p>
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	MOTHER	FATHER	COMBINED
1. Enter the # of natural and adopted children of this mother and father for whom support is to be awarded.			
2a. Enter the father's and mother's gross monthly income. Refer to Instructions for definition of income.	\$	\$	
2b. Enter previously ordered alimony that is actually paid. (Do not enter alimony ordered for this case).	-	-	
2c. Enter previously ordered child support. (Do not enter obligations ordered for the children in Line 1).	-	-	
2d. OPTIONAL: Enter the amount from Line 12 of the Children in Present Home Worksheet for either parent.	-	-	
3. Subtract Lines 2b, 2c, and 2d from 2a. This is the Adjusted Gross Income for child support purposes.	\$	\$	\$
4. Take the COMBINED figure in Line 3 and the number of children in Line 1 to the Support Table. Enter the Combined Support Obligation here.			\$
5. Divide each parent's adjusted monthly gross in Line 3 by the COMBINED adjusted monthly gross in Line 3.	%	%	
6. Multiply Line 4 by Line 5 for each parent to obtain each parent's share of the Base Support Obligation.	\$	\$	
7. Enter the number of overnights the children will spend with each parent. (They must total 365). Each parent must have at least 111 overnights to qualify for Joint Physical Custody (UCA 78-45-2(13)).			365
7b. Identify the parent who has the child the lesser number of overnights, and continue the rest of the calculation for them. You will be making adjustments to the net amount owed by this parent.			
8a. For the parent who has the child the lesser number of overnights multiply the number of overnights that are greater than 110 but less than 131 by .0027 to obtain a resulting figure and enter in the respective column.			
8b. Multiply the result on line 8a. by the Combined Support Obligation on line 4 for this parent and enter the number in the respective column.	\$		
8c. Subtract the respective dollar amount on line 8b. from this parent's share of the Base Support Obligation found in the column for this parent on line 6 to determine the amount as indicated by UCA 78-45-7.9 (3)(a) and enter the amount in the respective column.	\$		

9a. Additional calculation necessary if both parents have the child for more than 131 overnights (Otherwise go to line 10): For the parent who has the child the lesser number of overnights multiply the number of overnights that exceed 130 (131 overnights or more) by .0084 to obtain a resulting figure and enter it in the respective column.	
9b. Multiply the result on line 9a. by the Combined Support Obligation on line 4 for this parent and enter each in the respective column.	\$
9c. Subtract this parent's dollar amount on line 9b. from their respective amount as identified on line 8c. to determine the amount as indicated by UCA 78-45-7.9(3)(b) and enter the amount in the respective column. Go to line 10.	\$

10. BASE CHILD SUPPORT AWARD: If the result in line 9c. is > 0, then this parent is the obligor (and the other parent is the obligee). Enter the amount in line 9c. here. This is the amount owed by this parent to the obligee all 12 months of the year. If the result in line 9c. is < 0, then this parent is the obligee (and the other parent is the obligor). Enter the absolute value of the result in line 9c. here. This is the amount owed to this parent by the obligor all 12 months of the year.	\$
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11. Which parent is the obligor? () Mother () Father
12. Is the support award the same as the guideline amount in line 10? () Yes () No
 If NO, enter the amount ordered: \$ _____, and answer number 13.
13. What were the reason stated by the Court for the deviation?
 () property settlement
 () excessive debts of the marriage
 () absence of need of the custodial parent
 () other: _____

Attorney Bar No. _____

12/07

Instructions for the Joint Physical Custody Worksheet

Line 1. Enter the number of natural and adopted children of the mother and father for whom support is to be determined. Do not include any children of either parent by another partner on this line. If a child for whom support is to be determined is an unemancipated minor who does not live with his parents, use the total number of children, including the unemancipated minor, by that set of parents for Line 1.

Line 2a. Enter the mother's and father's gross monthly income. Definition of gross monthly income - prospective income from any source, salaries, wages, commissions, royalties, bonuses, rents, gifts, prizes, dividends, severance pay, pensions, interest, trust income, alimony from previous marriages, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment compensation, disability insurance benefits and payments for "non-means-tested" government programs. Income from earned sources is limited to the equivalent of one full time job. For self-employed parents, see UCA 78-45-7.5(4)(a) and (b).

Excluded from gross income are: cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program, benefits from: the housing subsidy program, the Job Training Partnership Act, S.S.I., S.S.D.I., Medicaid, Food Stamps, General Assistance, and other "means-tested" benefits received by a parent; earnings or benefits of a child who is subject to this award.

All income must be verified. Verification includes: year to date pay stubs, employer statements or records, the last year's tax return and documentation of non-earned income appropriate to the source.

Line 2b. Enter the amount of spousal support either parent is court ordered to pay and actually pays to another parent. Do not include alimony payments for this case. Alimony payments must be verified. Cancelled checks or a statement from the recipient of the alimony may be accepted as verification.

Line 2c. Enter the amount of support either parent is court ordered to pay for children by another partner. Previously ordered support may include specifically ordered payments toward a child's medical expenses, child care, or child support. A copy of the order is required for verification.

Line 2d. 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 adjusting a child support award. Use the WORKSHEET TO DETERMINE FATHER'S OBLIGATION TO CHILDREN IN HIS PRESENT HOME and/or the WORKSHEET TO DETERMINE MOTHER'S OBLIGATION TO CHILDREN IN HER PRESENT HOME to compute the obligations of the respective parents for the additional children. Consideration of natural or adoptive child(ren) other than those in common to both parties may be applied to lessen an increase in the award, but may not be applied to justify a decrease in the award.

Line 3. Complete the calculation as directed.

Line 4. The amount on the "Combined Child Support Obligation Table" shows the amount BOTH parents combined should contribute for the support of their child(ren).

Line 5. Each parent's share of the combined support obligation as a percentage figure.

Line 6. Each parent's share of the base support obligation as a dollar figure.

Line 7. This is the total number of overnights the children will have with each parent. Each parent must have at least 111 overnights to qualify for Joint Physical Custody (UCA 78-45-2(13)).

Line 7b. The rest of the calculation will be made for the parent who has the child(ren) the lesser number of overnights. So identify this parent here and continue the calculation for only this parent.

Line 8a. Complete the calculation as directed. This is the mathematical figure that will be used to reduce the base support obligation for overnights totaling between 110 to 130.

Line 8b. Complete the calculation as directed. This is the combined support obligation as a dollar figure for this parent.

Line 8c. Complete the calculation as directed. This is this parent's share of the base support obligation as a dollar figure.

Line 9a. If both parents have the child for more than 131 overnights, then continue the calculation as directed. This is the mathematical figure that will be used to reduce the base support obligation for any overnights greater than 130 that the child(ren) have with the parent who has the child(ren) the lesser number of overnights. **Otherwise go to line 10.**

Line 9b. Complete the calculation as directed. This is the combined support obligation as a dollar figure for this parent.

Line 9c. Complete the calculation as directed. This is this parent's share of the base support obligation as a dollar figure.

Line 10. Designate which parent must pay support and the support amount. The Base Child Support Award is the amount the obligor pays to the obligee all 12 months of the year. See the **Insurance Premium** and **Child Care Adjustment Worksheet** to determine how the insurance premiums and child care expenses may change the amount the obligor pays to the obligee.

Line 11. Designate which parent must pay support.

Line 12. Complete line 12 to show if the amount ordered deviates from the guideline amount in line 10. Complete line 13 if you deviated from the guideline amount.

IN THE _____ DISTRICT COURT

_____ COUNTY, STATE OF UTAH

<p>_____</p> <p>vs.</p> <p>_____</p> <p>The Combined Child Support Obligation Table used for calculation is: () 78-45-7.14(1) () 78-45-7.14(2) <i>Effective Jan. 1, 2008</i></p>	<p>WORKSHEET TO DETERMINE FATHER'S OBLIGATION TO CHILDREN IN HIS PRESENT HOME</p> <p>Civil No. _____</p>
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	FATHER	OTHER PARENT	COMBINED
OTHER PARENT NAME _____			
1. Enter the # of natural and adopted children of the father and the other parent.			
2a. Enter the father's and other parent's gross monthly income. Refer to Instructions for definition.	\$	\$	
2b. Enter previously ordered alimony that is actually paid. (Do not enter alimony ordered for this case).	-	-	
2c. Enter pre-existing ordered child support. (Do not enter obligations ordered for the children in this case).	-	-	
3. Subtract Lines 2b and 2c, from 2a. This is the Adjusted Monthly Gross Income for child support purposes.	\$	\$	\$
4. Take the COMBINED figure in Line 3 and the number of children in Line 1 to the Support Table. Find the Combined Support Obligation. Enter it here.			\$
5. Divide each parent's adjusted monthly gross in Line 3 by the COMBINED adjusted monthly gross in Line 3.	%	%	
6. Multiply Line 4 by Line 5 for each parent to obtain each parent's share of the Base Support Obligation.	\$	\$	
7. Enter the amount of the children's portion of the insurance premium actually paid.			\$
8. Enter the monthly work or training related child care expense for the children in Line 1.			

9.	FATHER'S SHARE OF BASE CHILD SUPPORT AWARD FOR THE CHILDREN IN LINE 1. Enter the amount for the father from line 6.	\$
10.	FATHER'S SHARE OF CHILDREN'S INSURANCE FOR THE CHILDREN IN LINE 1. Multiply Line 7 by .50, and enter the result here.	\$
11.	FATHER'S SHARE OF WORK OR TRAINING RELATED CHILD CARE EXPENSES FOR THE CHILDREN IN LINE 1. Multiply Line 8 by .50, and enter the result here.	\$
12.	FATHER'S SHARE OF TOTAL CHILD SUPPORT OBLIGATION TO THE CHILDREN IN LINE 1. Add lines 9,10, and 11. This amount may be used to adjust the father's gross income on the sole, split, or joint custody worksheets.	\$

INSTRUCTIONS FOR CHILDREN IN THE FATHER'S HOME WORKSHEET

Use this worksheet to determine the father's obligation for natural or adopted children who live in his home and who are not children of the mother listed on the Sole, Split, or Joint Custody Worksheets (primary worksheets). The father may use this worksheet in modifying an existing child support award, or setting a paternity award, or other appropriate circumstances where the father has child support obligations for other children.

Other Parent Name: The other parent may be a current spouse, partner, or an ex-spouse of the father.

Line 1. Enter the number of natural or adopted children of the father and the other parent named on this worksheet. If the father has children in his home by more than one mother, complete a separate worksheet for the children of each other parent.

Line 2a. Enter the father's and other parent's gross monthly income. Definition of gross monthly income - prospective income from any source, salaries, wages, commissions, royalties, bonuses, rents, gifts, prizes, dividends, severance pay, pensions, interest, trust income, alimony from previous marriages, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment compensation, disability insurance benefits and payments for "non-means-tested" government programs. Income from earned sources is limited to the equivalent of one full time job. For self-employed parents, see UCA 78-45-7.5(4)(a) and (b).

Excluded from gross income are: Aid to Families With Dependent Children (AFDC), benefits from: the housing subsidy program, the Job Training Partnership Act, S.S.I., Medicaid, Food Stamps, General Assistance, and other "means-tested" benefits received by a parent; earnings or benefits of a child who is subject to this award.

All income must be verified. Verification includes: year to date pay stubs, employer statements or records, the last year's tax return and documentation of non-earned income appropriate to the source.

Line 2b. In the FATHER'S column, enter the monthly alimony amount he is paying to a parent other than the one listed on this worksheet or the primary worksheet. In the other parent's column enter the monthly alimony that mother is paying to someone other than the father listed on this worksheet.

Line 2c. In the FATHER'S column, enter the court ordered child support he is ordered to pay for children other than the children listed on the primary worksheet. In the other parent's column list the amount that mother is ordered to pay for children other than those listed on this worksheet.

Line 7. In the combined column, enter the children's portion of insurance premium that is actually paid. To determine the children's portion divide the total premium by the number of persons covered by the policy and then multiply that number by the number of children listed on this worksheet that are covered by policy.

Line 8. Enter the amount of work-related, reasonable, child care expenses for up to a full-time work week or training schedule.

Line 12. Enter the amount on this line on Line 2d of the Sole Custody, Line 3d of the Split Custody or Line 4d of the Joint Custody Worksheets.

IN THE _____ DISTRICT COURT

_____ COUNTY, STATE OF UTAH

<p>_____</p> <p>vs.</p> <p>_____</p> <p>The Combined Child Support Obligation Table used for calculation is: () 78-45-7.14(1) () 78-45-7.14(2) <i>Effective Jan. 1, 2008</i></p>	<p>WORKSHEET TO DETERMINE MOTHER'S OBLIGATION TO CHILDREN IN HER PRESENT HOME</p> <p>Civil No. _____</p>
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	MOTHER	OTHER PARENT	COMBINED
1. Enter the # of natural and adopted children of the mother and the other parent.			
2a. Enter the mother's and other parent's gross monthly income. Refer to Instructions for definition.	\$	\$	
2b. Enter previously ordered alimony that is actually paid. (Do not enter alimony ordered for this case).	-	-	
2c. Enter pre-existing ordered child support. (Do not enter obligations ordered for the children in this case).	-	-	
3. Subtract Lines 2b and 2c, from 2a. This is the Adjusted Monthly Gross Income for child support purposes.	\$	\$	\$
4. Take the COMBINED figure in Line 3 and the number of children in Line 1 to the Support Table. Find the Combined Support Obligation. Enter it here.			\$
5. Divide each parent's adjusted monthly gross in Line 3 by the COMBINED adjusted monthly gross in Line 3.	%	%	
6. Multiply Line 4 by Line 5 for each parent to obtain each parent's share of the Base Support Obligation.	\$	\$	
7. Enter the amount of the children's portion of the insurance premium actually paid.			\$
8. Enter the monthly work or training related child care expense for the children in Line 1.			\$

9.	<p>MOTHER'S SHARE OF BASE CHILD SUPPORT AWARD FOR THE CHILDREN IN LINE 1. Enter the amount for the mother from line 6.</p>	\$
10.	<p>MOTHER'S SHARE OF CHILDREN'S INSURANCE FOR THE CHILDREN IN LINE 1. Multiply Line 7 by .50, and enter the result here.</p>	\$
11.	<p>MOTHER'S SHARE OF WORK OR TRAINING RELATED CHILD CARE EXPENSES FOR THE CHILDREN IN LINE 1. Multiply Line 8 by .50, and enter the result here.</p>	\$
12.	<p>MOTHER'S SHARE OF TOTAL CHILD SUPPORT OBLIGATION TO THE CHILDREN IN LINE 1. Add lines 9,10, and 11. This amount may be used to adjust the mother's gross income on the sole, split, or joint custody worksheets.</p>	\$

INSTRUCTIONS FOR CHILDREN IN THE MOTHER'S HOME WORKSHEET

Use this worksheet to determine the mother's obligation for natural or adopted children who live in her home and who are not children. Of the father listed on the Sole, Split, or Joint Custody Worksheets (primary worksheet). The mother may use this worksheet in modifying an existing child support award, or setting a paternity award, or other appropriate circumstances where the mother has child support obligations for other children.

Other Parent Name: The other parent may be a current spouse, partner, or an ex-spouse of the mother.

Line 1. Enter the number of natural or adopted children of the mother and the other parent named on this worksheet. If the mother has children in her home by more than one father, complete a separate worksheet for the children of each other parent.

Line 2a. Enter the mother's and other parents gross monthly income. Definition of gross monthly income - prospective income from any source, salaries, wages, commissions, royalties, bonuses, rents, gifts, prizes, dividends, severance pay, pensions, interest, trust income, alimony from previous marriages, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment compensation, disability insurance benefits and payments for "non-means-tested" government programs. Income from earned sources is limited to the equivalent of one full time job. For self-employed parents, see UCA 78-45-7.5(4)(a) and (b).

Excluded from gross income are: Aid to Families With Dependent Children (AFDC), benefits from: the housing subsidy program, the Job Training Partnership Act, S.S.I., Medicaid, Food Stamps, General Assistance, and other "means-tested" benefits received by a parent; earnings or benefits of a child who is subject to this award.

All income must be verified. Verification includes: year to date pay stubs, employer statements or records, the last year's tax return and documentation of non-earned income appropriate to the source.

Line 2b. In the MOTHER'S column, enter the monthly alimony amount she is paying to a parent other than the one listed on this worksheet or the primary worksheet. In the other parents column enter the monthly alimony that father is paying to someone other than the mother listed on this worksheet.

Line 2c. In the MOTHER'S column, enter the court ordered child support she is ordered to pay for children other than the children listed on the primary worksheet. In the other parent's column, list the amount that father is ordered to pay for children other than those listed on this worksheet.

Line 7. In the combined column, enter the children's portion of insurance premium that is actually paid. To determine the children's portion divide the total premium by the number of persons covered by the policy and then multiply that number by the number of children listed on this worksheet that are covered by the policy.

Line 8. Enter the amount of work-related, reasonable, child care expenses for up to a full-time work week or training schedule.

Line 12. Enter the amount on this line on Line 2d of the Sole Custody, Line 3d of the Split Custody or Line 4d of the Joint Custody Worksheets.

INSURANCE PREMIUM AND CHILD CARE ADJUSTMENT WORKSHEET

INSURANCE ADJUSTMENT

Use this section of the worksheet to calculate how the children's medical insurance premium expenses change the amount the obligor pays to the obligee.

If the OBLIGOR parent is ordered to maintain medical insurance for the children complete this section.

A. Enter the amount of the children's portion of the medical insurance premium actually paid by the obligator.	\$
B. Multiply Line A. by .50 to obtain the obligee's share of the premium.	\$
C. Subtract the amount in Line B. from the base child support award to obtain the amount the obligor pays to the obligee for the months the premium is actually paid. Enter the result here.	\$

If the OBLIGEE parent is ordered to maintain medical insurance for the children complete this section.

D. Enter the amount of the children's portion of the medical insurance premium actually paid by the obligee.	\$
E. Multiply Line D. by .50 to obtain the obligor's share of the premium.	\$
F. Add the amount in Line E. to the base child support award to obtain the amount the obligor pays to the obligee for the months the premium is actually paid.	\$

No credit or offset is allowed unless the premium is actually paid. If the premium is not paid, the obligor must pay the amount of the base child support award.

CHILD CARE ADJUSTMENT

Use this section of the worksheet to calculate how the children's child care expenses change the amount the obligor pays to the obligee.

G. Enter the average amount of monthly child care expense actually paid by the obligee.	\$
H. Multiply Line G. by .50 to obtain the obligor's share of the child care expense. Enter the result here. Complete box I, J, or K below.	\$
I. If neither parent is maintaining insurance , add the amount in Line H. to the base child support award to obtain the amount the obligor pays to the obligee for the months the child care expense is incurred. Enter the result here.	\$
J. If the obligor is maintaining insurance , add the amount in Line H. to the amount in Line C. to obtain the amount the obligor pays to the obligee for the months the child care expense is incurred. Enter the result here.	\$
K. If the obligee is maintaining insurance , add the amount in Line H. to the amount in Line F. to obtain the amount the obligor pays to the obligee for the months the child care expense is incurred. Enter the result here.	\$

INSTRUCTIONS FOR THE INSURANCE PREMIUM AND CHILD CARE ADJUSTMENT WORKSHEET

- Line A. Enter the children's portion of the medical insurance premium actually paid by the obligator. Obtain this figure by dividing the premium amount actually paid by the obligor by the number of persons covered by the policy and then multiplying that number by the number of children in this case covered by the policy.
- Line B. Complete the calculation as directed.
- Line C. Complete the calculation as directed. The base child support award is found on line 7 of the sole custody worksheet, line 10 of the split custody worksheet and line 11 on the joint custody worksheet.
- Line D. Enter the children's portion of the medical insurance premium actually paid by the obligee. Obtain this figure by dividing the premium amount actually paid by the obligee by the number of persons covered by the policy and then multiplying that number by the number of children in this case covered by the policy.
- Line E. Complete the calculation as directed.
- Line F. Complete the calculation as directed. The base child support award is found on line 7 of the sole custody worksheet, line 10 of the split custody worksheet and line 11 on the joint custody worksheet.
- Line G. Enter the average amount of monthly child care expense actually paid by the obligee for the children in this case.
- Line H. Complete the calculation as directed.
- Line L. Complete the calculation as directed. The base child support award is found on line 7 of the sole custody worksheet, line 10 of the split custody worksheet and line 11 of the joint custody worksheet.
- Line J. Complete the calculation as directed.
- Line K. Complete the calculation as directed.

CHILD SUPPORT OBLIGATION WORKSHEET REQUIRED LOCATION INFORMATION

Court: _____ **Case No:** _____

Petitioner: _____ **Respondent:** _____

As required by 62A-11-304.4, U.C.A., "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: (i) with the court or administrative agency that conducted the proceeding, and (ii) after October 1, 1998, with the state case registry."

THE FOLLOWING INFORMATION MUST BE SUBMITTED AT THE TIME THE CHILD SUPPORT OBLIGATION WORKSHEET IS SUBMITTED. Whether you are the Petitioner or the Respondent, please fill out the information for yourself and the other party to the best of your ability. If any information is unknown, please so indicate. Do not leave any space blank.

PETITIONER: I am the (check one) _____ custodial parent _____ non-custodial parent

Social Security Number _____

Driver License Number _____ State _____

Residential Address _____

Mailing Address (if different than residential address:)

Telephone Number: _____ Date of Birth: _____

Employer: _____

Employer's Address: _____

Employer's Phone Number: _____

THIS INFORMATION IS CURRENT AS OF _____ (date)

RESPONDENT:

Social Security Number _____

Driver License Number _____ State _____

Residential Address _____

Mailing Address (if different than residential address:)

Telephone Number: _____ Date of Birth: _____

Employer: _____

Employer's Address: _____

Employer's Phone Number: _____

THIS INFORMATION IS CURRENT AS OF _____ (date)

Federal Law contains a prohibition against disclosing federal case registry information (name, social security number, date of birth, state) if the State has notified the registry there is reasonable evidence of domestic violence or child abuse or that disclosure of the information could be harmful to the parent or the child. If you wish to request the information be "safeguarded" (that is, not disclosed), check in the appropriate place below.

(Petitioner or Attorney for Petitioner)

I request that this information be safeguarded (not disclosed) _____

(Respondent or Attorney for Respondent)

I request that this information be safeguarded (not disclosed) _____

CHILD SUPPORT OBLIGATION WORKSHEET REQUIRED LOCATION INFORMATION

AS REQUIRED BY TECHNICAL AMENDMENTS TO WELFARE REFORM SECTION 653(h)(2) (federal law) and U.C.A. 62A-11-103(14), THE FOLLOWING INFORMATION MUST BE SUBMITTED FOR EACH CHILD AT THE TIME THE CHILD SUPPORT OBLIGATION WORKSHEET IS SUBMITTED.

Name: _____

Date of Birth: _____

Social Security Number: _____

Name: _____

Date of Birth: _____

Social Security Number: _____

Name: _____

Date of Birth: _____

Social Security Number: _____

Name: _____

Date of Birth: _____

Social Security Number: _____

Name: _____

Date of Birth: _____

Social Security Number: _____

Name: _____

Date of Birth: _____

Social Security Number: _____

(Attach additional sheets if necessary)

ORDER/NOTICE TO WITHHOLD INCOME FOR CHILD SUPPORT

State _____,
Co./City/Dist. of _____
Date of Order/Notice _____
Court/Case Number _____

Original Order/Notice
Amended Order/Notice
Terminate Order/Notice

Employer/Withholder's Federal EIN Number) RE:
Employee/Obligor's Name (Last, First, MI)
Employer/Withholder's Name)
Employee/Obligor's Social Security Number
Employer/Withholder's Address)
Employee/Obligor's Case Identifier
Custodial Parent's Name (Last, First, MI)

Child(ren)'s Name(s): DOB Child(ren)'s Name(s): DOB

ORDER INFORMATION: This is an Order/Notice to Withhold Income for Child Support based upon an order for support from _____. By law, you are required to deduct these amounts from the above-named employee's/obligor's income until _____ even if the Order/Notice is not issued by your State.

If checked, you are required to enroll the child(ren) identified above in any health insurance coverage available through the employee's/obligor's employment.

\$ _____ per _____ in current support
\$ _____ per _____ in past-due support Arrears 12 weeks or greater? [] yes [] no
\$ _____ per _____ in medical support
\$ _____ per _____ in other (specify)
_____ per _____ in other (specify)
for a total of \$ _____ per _____ to be forwarded to the payee below.

You do not have to vary your pay cycle to be in compliance with the support order. If your pay cycle does not match the ordered support payment cycle, use the following to determine how much to withhold:

\$ _____ per weekly pay period. \$ _____ per semimonthly pay period (twice a month).
\$ _____ per biweekly pay period (every two weeks). \$ _____ per monthly pay period.

REMITTANCE INFORMATION: Follow the laws and procedures of the employee's/obligor's principal place of employment even if such laws and procedures are different from this paragraph:

You must begin withholding no later than the first pay period occurring five (5) working days after the date of this Order/Notice. Send payment within seven (7) working days of the paydate/date of withholding. You are entitled to deduct a fee of \$10.00 per month to defray the cost of withholding. The total withheld amount, including your fee, cannot exceed _____% the employee/obligor's aggregate disposable weekly earnings. For the purpose of the limitation on withholding, the following information is needed (see #9 on page two):

When remitting payment provide the paydate/date of withholding, the employee/obligor's Social Security Number, and the case number / identifier _____.

If remitting by EFT/EDI, use this FIPS code: _____ N/A; Bank routing code: _____ N/A

Bank account number: _____ N/A

Make it payable to: OFFICE OF RECOVERY SERVICES

Send check to: P.O. BOX 45011
SALT LAKE CITY, UTAH 84145-0011

Authorized by Judge _____

Print Name _____

ADDITIONAL INFORMATION TO EMPLOYERS AND OTHER WITHHOLDERS

If checked you are required to provide a copy of this form to your employee.

1. **Priority:** Withholding under this Order/Notice has priority over any other legal process under State law against the same income. Federal tax levies in effect before receipt of this order have priority. If there are Federal tax levies in effect please contact the requesting agency listed below.
2. **Combining Payments:** You can combine withheld amounts from more than one employee/obligor's income in a single payment to each agency requesting withholding. You must, however, separately identify the portion of the single payment that is attributable to each employee/obligor.
3. **Reporting the Paydate/Date of Withholding:** You must report the paydate/date of withholding when sending the payment. The paydate/date of withholding is the date on which the employee is paid and controls the income, i.e. the date the income check or cash is given to the employee, or the date in which the income is deposited directly in his/her account.
4. **Employee/Obligor with Multiple Support Withholdings:** If you receive more than one Order/Notice against this employee/obligor and you are unable to honor them all in full because together they exceed the withholding limit of the State of the employee's principal place of employment (see #9 below), you must allocate the withholding based on the law of the State of the employee's principal place of employment. If you are unsure of that State's allocation law, you must honor all Orders/Notices' current support withholdings before you withhold for any arrearages, to the greatest extent possible under the withholding limit. You should immediately contact the last agency that sent you an Order/Notice to find the allocation law of the state of the employee's principal place of employment.
5. **Termination Notification:** You must promptly notify the payee when the employee/obligor is no longer working for you. Please provide the information requested and return a copy of this order/notice to the agency identified below.

EMPLOYEE'S/OBLIGOR'S NAME: _____

EMPLOYEE'S CASE IDENTIFIER: _____ DATE OF SEPARATION: _____

LAST KNOWN HOME ADDRESS _____

NEW EMPLOYER'S ADDRESS _____

6. **Lump Sum Payments:** You may be required to report and withhold from lump sum payments such as bonuses, commissions, or severance pay. If you have any questions about lump sum payments, contact the person or authority below.
7. **Liability:** If you fail to withhold income as the Order/Notice directs, you are liable for both the accumulated amount you should have withheld from the employee/obligor's income and any other penalties set by State law. Under U.C.A. 62A-11-406(6)(a) you may be liable to the office for a late fee which is the greater of \$50 or 10% of the withheld income for each payment that is not mailed or delivered within 7 business days of the date the employee/obligor is paid. If you willfully fail to withhold income as the Order/Notice directs, you may be liable to the office for the greater of \$1,000 or the accumulated amount you should have withheld, plus interest. In addition, under U.C.A. sections 62A-11-406(11) and 62A-11-407(2)(a), (b), and (5), the office, the obligee, or the employee/obligor may take legal action against you to enforce any provision of the Order/Notice and recover costs of the action including reasonable attorney's fees.
8. **Anti-discrimination:** You are subject to a fine determined under State law for discharging an employee/obligor from employment, refusing to employ, or taking disciplinary action against any employee/obligor because of a child support withholding. Under U.C.A. 62A-11-406(10) if you take any of these actions against the employee/obligor because of the Order/Notice, you may be liable to the employee/obligor and to the office for the greater of \$1,000 or the accumulated child support which should have been withheld, plus interest; you may also be liable for costs and reasonable attorney's fees under U.C.A. 62A-11-406(11).
9. **Withholding Limits:** You may not withhold more than the lesser of: 1) the amounts allowed by the Federal Consumer Credit Protection Act (15 U.S.C. § 1673(b)); or 2) the amounts allowed by the State of the employee's/obligor's principal place of employment. The Federal limit applies to the aggregate disposable weekly earnings (ADWE). ADWE is the net income left after making mandatory deductions such as: State, Federal, local taxes; Social Security taxes; and Medicare taxes. The Federal CCPA limit is 50% of the ADWE for child support and alimony, which is increased by: 1) 10% if the employee does not support a second family; and/or 2) 5% if arrears are more than 12 weeks old. (see boxes on front)
10. _____

Requesting Agency _____

If you or your employee/obligor have any questions, contact:
OFFICE OF RECOVERY SERVICES
 by telephone at (801) 536-8500 or (800) 662-8525 Salt Lake
 (801) 626-3475 or (800) 336-2629 Ogden
 (801) 374-7233 or (800) 255-8734 Provo
 (801) 896-5461 or (800) 896-5461 Richfield
 (801) 674-3900 or (800) 678-1732 St. George

MAILING CERTIFICATE

I hereby certify that a copy of the foregoing Order/Notice to Withhold Income for Child Support, Court/Case Number _____, was delivered or mailed in the ordinary course of business to the Employer/Withholder, the Custodial Parent, the Non-Custodial Parent, and The Office of Recovery Services on this _____ day of _____, 19 ____.
