

## **Description of Divorce Process**

**Petition:** You can create a petition using OCAP (Online Court Assistance Program) at: <https://www.utcourts.gov/ocap/>

- **Cost:** The use of the program is free. When you file it will cost \$20 unless you qualify for a fee waiver based on your income. The filing fees to file a complaint are \$325 if you do not get a fee waiver.
- **Types of cases:** OCAP has documents for custody, divorce, Motion to Enforce, Guardianship, Protective orders and Stalking Injunctions, Garnishment, Eviction, and Small Claims.
- **Format:** The program asks you questions. You type in the answer and the program plugs all of the information into the right places. Be sure to keep your password so you don't have to start over!

**Answer & Counterclaim:** OCAP can help you draft an answer and the counterclaim. If you want something different than what was requested in the petition, you **must** file a counterclaim. It costs \$130 to file a counterclaim unless you qualify for a fee waiver.

- **Domestic Relations Injunction:** Once the case is filed, the court automatically issues a Domestic Relations Injunction. The injunction is a court order requiring parties not to harass one another, change insurance or beneficiary coverage, transfer property or make non-routine travel with the parties' minor children while the case is pending, etc. Be sure to read it carefully.
- **Service/Filing an Answer:** The respondent has 21 days (if they were served in Utah) or 30 days (if they were served outside of Utah) to respond to or "answer" the divorce petition

**30-Day Waiting Period:** There is a mandatory 30-day waiting period between the date the petition is filed and the date the decree is signed (previously it was 90 days). A party may ask the Court to waive the 30 days for extraordinary circumstances.

**Case Management Conference:** Once an answer is filed you will be scheduled for a *case management conference*. You need to attend this hearing. If you don't show, the Court may award court costs and attorney's fees to the opposing party. These conferences address scheduling issues and aim to speed up the process.

**Divorce Orientation and Education classes:** Mandatory for all people with minor children involved in the divorce. The Orientation class costs \$30 and the Education class is \$35. The Orientation fee is reduced to \$15 if taken within 30 days of filing the petition or being served with the petition if you are the Respondent. The classes must be taken by Petitioner within 60 days of filing. The Respondent must take the classes within 30 days of being served. Additionally, the classes can be taken online. The fee will be waived if you qualify for a fee waiver. The dates and times can be found here: <https://www.utcourts.gov/specproj/dived/> Free classes are also available for children of divorcing families at [www.utcourts.gov/divorceedforchildren/](https://www.utcourts.gov/divorceedforchildren/) or 801-578-3897

**Temporary Orders:** If you need temporary child support, alimony, possession of the home or cars, or a custody order and parent time schedule, then you should consider getting temporary orders. You need to file a motion and a statement in support of the motion, and you may request a hearing. The documents can be drafted on OCAP and must be served on the opposing party. Prior to the hearing, you need to complete the divorce orientation class and file your financial declaration.

**Mediation:** The vast majority of cases are settled at mediation. If you come to a complete agreement, you will not need to appear again in court. After the stipulation is signed, the Findings of Fact and Conclusions of Law, and the Decree of Divorce are submitted to the court for signature. It is also possible to reach a partial agreement. This means that only the remaining contested issues will be considered at the trial. The judge will sign one Decree which will include both the decision at trial and the issues that were agreed upon at mediation. *It is very important to understand that if you sign a stipulation, the court will consider it binding even if you immediately regret your decision.* **DO NOT** sign a stipulation unless you fully understand the terms and completely agree to be bound by them.

**Custody Evaluations:** If custody is not settled the judge will encourage you to get a custody evaluation. The judge wants someone neutral to give insight on what is best for the kids. Custody Evaluations are very expensive. Typically, they will cost between \$5,000-\$15,000 depending on whether you need a written report or if the evaluator must testify at court.

**Trial:** You do have the right to represent yourself at trial, but the court will hold you to the same standard as an attorney. However, under Rule 4-904 if the parties agree, you can request an informal trial to ease the rules of evidence.

**TLC strongly encourages you to discuss your case with an attorney. TLC attorneys are available at 801 649-8895, Monday- Friday between 9:00 a.m. and 2:00 p.m.**

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- Last updated by Brooke Robinson of Timpanogos Legal Center on 2/3/2023. If you are aware of updates, please email [brooke@timplegal.org](mailto:brooke@timplegal.org). Information on this page should not be construed as legal advice. Please talk with an attorney.