

78A-6-1106 Child support obligation when custody of a child is vested in an individual or institution.

- (1) Except as provided in Subsection (11), when legal custody of a child is vested by the court in a secure youth corrections facility or any other state department, division, or agency other than the child's parents, or if the guardianship of the child has been granted to another party and an agreement for a guardianship subsidy has been signed by the guardian, the court shall order the parents, a parent, or any other obligated person to pay child support for each month the child is in custody. In the same proceeding the court shall inform the parents, a parent, or any other obligated person, verbally and in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12, Utah Child Support Act.
- (2) If legal custody of a child is vested by the court in a secure youth corrections facility, or any other state department, division, or agency, the court may refer the establishment of a child support order to the Office of Recovery Services. The referral shall be sent to the Office of Recovery Services within three working days of the hearing. Support obligation amounts shall be set by the Office of Recovery Services in accordance with Title 78B, Chapter 12, Utah Child Support Act.
- (3) If referred to the Office of Recovery Services pursuant to Subsection (2), the court shall also inform the parties that they are required to contact the Office of Recovery Services within 30 days of the date of the hearing to establish a child support order and the penalty in Subsection (5) for failing to do so. If there is no existing child support order for the child, the liability for support shall accrue beginning on the 61st day following the hearing that occurs the first time the court vests custody of the child in a secure youth corrections facility, or any other state department, division, or agency other than the child's parents.
- (4) If a child is returned home and legal custody is subsequently vested by the court in a secure youth corrections facility or any other state department, division, or agency other than the child's parents, the liability for support shall accrue from the date the child is subsequently removed from the home, including time spent in detention or sheltered care.
- (5)
 - (a) If the parents, parent, or other obligated person meets with the Office of Recovery Services within 30 days of the date of the hearing, the child support order may not include a judgment for past due support for more than two months.
 - (b) Notwithstanding Subsection (5)(a), the court may order the liability of support to begin to accrue from the date of the proceeding referenced in Subsection (1) if:
 - (i) the parents, parent, or any other person obligated fails to meet with the Office of Recovery Services within 30 days after being informed orally and in writing by the court of that requirement; and
 - (ii) the Office of Recovery Services took reasonable steps under the circumstances to contact the parents, parent, or other person obligated within the subsequent 30-day period to facilitate the establishment of the child support order.
 - (c) For purposes of Subsection (5)(b)(ii), the Office of Recovery Services shall be presumed to have taken reasonable steps if the office:
 - (i) has a signed, returned receipt for a certified letter mailed to the address of the parents, parent, or other obligated person regarding the requirement that a child support order be established; or
 - (ii) has had a documented conversation, whether by telephone or in person, with the parents, parent, or other obligated person regarding the requirement that a child support order be established.

- (6) In collecting arrears, the Office of Recovery Services shall comply with Section 62A-11-320 in setting a payment schedule or demanding payment in full.
- (7) Unless otherwise ordered, the parents or other person shall pay the child support to the Office of Recovery Services. The clerk of the court, the Office of Recovery Services, or the Department of Human Services and its divisions shall have authority to receive periodic payments for the care and maintenance of the child, such as Social Security payments or railroad retirement payments made in the name of or for the benefit of the child.
- (8) No court order under this section against a parent or other person shall be entered, unless notice of hearing has been served within the state, a voluntary appearance is made, or a waiver of service given. The notice shall specify that a hearing with respect to the financial support of the child will be held.
- (9) An existing child support order payable to a parent or other obligated person shall be assigned to the Department of Human Services as provided in Section 62A-1-117.
- (10)
 - (a) Subsections (3) through (9) shall not apply if legal custody of a child is vested by the court in an individual.
 - (b) If legal custody of a child is vested by the court in an individual, the court may order the parents, a parent, or any other obligated person to pay child support to the individual. In the same proceeding the court shall inform the parents, a parent, or any other obligated person, verbally and in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12, Utah Child Support Act.
- (11)
 - (a) The court may not order the parent or any other obligated person to pay child support for a child in state custody if:
 - (i) the parent or other obligated person's only form of income is a government-issued disability benefit; and
 - (ii) the benefit described in Subsection (11)(a)(i) is issued because of the parent or other person's disability, and not the child's disability.
 - (b) If a person seeks to be excused from providing support under Subsection (11)(a), the person shall provide the court and the Office of Recovery Services with evidence that the person meets the requirements of Subsection (11)(a).

Amended by Chapter 416, 2013 General Session