



- 28           **70A-3-311**, as enacted by Chapter 237, Laws of Utah 1993
- 29           **78-3a-118**, as last amended by Chapters 2 and 8, Laws of Utah 2002, Fifth Special
- 30 Session
- 31           **78-3a-906**, as last amended by Chapter 300, Laws of Utah 2001
- 32           **78-22-1**, as last amended by Chapter 370, Laws of Utah 2001
- 33           **78-45-7.2**, as last amended by Chapter 232, Laws of Utah 1997
- 34           **78-45-7.10**, as last amended by Chapter 161, Laws of Utah 2000
- 35           **78-45-7.11**, as last amended by Chapter 255, Laws of Utah 2001
- 36           **78-45-7.15**, as last amended by Chapter 258, Laws of Utah 1995
- 37           **78-45-9**, as last amended by Chapter 258, Laws of Utah 1995
- 38           **78-45-9.3**, as renumbered and amended by Chapter 161, Laws of Utah 2000
- 39           **78-45a-7**, as last amended by Chapter 232, Laws of Utah 1997
- 40           **78-45e-2**, as last amended by Chapter 232, Laws of Utah 1997
- 41           **78-45e-3**, as last amended by Chapter 188, Laws of Utah 1998
- 42           **78-45e-4**, as last amended by Chapter 232, Laws of Utah 1997

43 *Be it enacted by the Legislature of the state of Utah:*

44           Section 1. Section **26-2-2** is amended to read:

45           **26-2-2. Definitions.**

46           As used in this chapter:

47           (1) "Dead body" or "decedent" means a human body or parts of the human body from  
48 the condition of which it reasonably may be concluded that death occurred.

49           (2) "Dead fetus" means a product of human conception:

50           (a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual  
51 period began to the date of delivery; and

52           (b) that was not born alive.

53           (3) "Declarant father" means a male who, with the biological mother, declares that he  
54 is the father of a child conceived as a result of sexual intercourse with the mother.

55           [~~(3)~~] (4) "File" means the submission of a completed certificate or other similar  
56 document, record, or report as provided under this chapter for registration by the state registrar  
57 or a local registrar.

58           [~~(4)~~] (5) "Funeral director" or "person acting as the funeral director" means the person

59 who takes possession of a dead body or dead fetus, prepares the dead body or dead fetus and  
60 arranges for its final disposition, and includes:

- 61 (a) a licensed funeral director;  
62 (b) a representative of a hospital which is making final disposition; or  
63 (c) another person assuming responsibility for the final disposition of the remains.  
64 ~~[(5)]~~ (6) "Health care facility" has the same definition as in Section 26-21-2.  
65 ~~[(6)]~~ (7) "Live birth" means the birth of a child who shows evidence of life after it is  
66 entirely outside of the mother.

67 ~~[(7)]~~ (8) "Local registrar" means a person appointed under Subsection 26-2-3(2)(b).

68 ~~[(8)]~~ (9) "Physician" means a person licensed to practice as a physician or osteopath in  
69 this state under Title 58, Chapter ~~[12, Part 1 or Part 5]~~ 67 or Chapter 68.

70 (10) "Presumptive father" means the father of a child conceived or born during a  
71 marriage as defined in Section 30-1-17.2.

72 ~~[(9)]~~ (11) "Registration" or "register" means acceptance by the local or state registrar of  
73 a certificate and incorporation of it into the permanent records of the state.

74 ~~[(10)]~~ (12) "State registrar" means the state registrar of vital records appointed under  
75 Subsection 26-2-3(1)(e).

76 ~~[(11)]~~ (13) "Vital records" means registered certificates or reports of birth, death, fetal  
77 death, marriage, divorce, dissolution of marriage, or annulment, amendments to any of these  
78 registered certificates or reports, and other similar documents.

79 ~~[(12)]~~ (14) "Vital statistics" means the data derived from registered certificates and  
80 reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce,  
81 dissolution of marriage, or annulment.

82 Section 2. Section **26-2-5** is amended to read:

83 **26-2-5. Birth certificates -- Execution and registration requirements.**

84 (1) As used in this section, "birthing facility" means a general acute hospital or birthing  
85 center as defined in Section 26-21-2.

86 (2) For each live birth occurring in the state, a certificate shall be filed with the local  
87 registrar for the district in which the birth occurred within ten days following the birth. The  
88 certificate shall be registered if it is completed and filed in accordance with this chapter.

89 (3) (a) For each live birth that occurs in a birthing facility, the administrator of the

90 birthing facility, or his designee, shall obtain and enter the information required under this  
91 chapter on the certificate, securing the required signatures, and filing the certificate.

92 (b) (i) The date, time, place of birth, and required medical information shall be certified  
93 by the birthing facility administrator or his designee.

94 (ii) The attending physician or nurse midwife may sign the certificate, but if the  
95 attending physician or nurse midwife has not signed the certificate within seven days of the  
96 date of birth, the birthing facility administrator or his designee shall enter the attending  
97 physician's or nurse midwife's name and transmit the certificate to the local registrar.

98 (iii) The information on the certificate about the parents shall be provided and certified  
99 by the mother or father or, in their incapacity or absence, by a person with knowledge of the  
100 facts.

101 (4) (a) For live births that occur outside a birthing facility, the birth certificate shall be  
102 completed and filed by the physician, nurse, midwife, or other person primarily responsible for  
103 providing assistance to the mother at the birth. If there is no such person, either the  
104 presumptive or declarant father shall complete and file the certificate. In his absence, the  
105 mother shall complete and file the certificate, and in the event of her death or disability, the  
106 owner or operator of the premises where the birth occurred shall do so.

107 (b) The certificate shall be completed as fully as possible and shall include the date,  
108 time, and place of birth, the mother's name, and the signature of the person completing the  
109 certificate.

110 [~~4~~] (5) (a) For each live birth to an unmarried mother that occurs in a birthing facility,  
111 the administrator or director of that facility, or his designee, shall:

112 (i) provide the birth mother and [~~biological~~] declarant father, if present, with:

113 (A) a voluntary declaration of paternity form published by the state registrar;

114 (B) oral and written notice to the birth mother and [~~biological~~] declarant father of the  
115 alternatives to, the legal consequences of, and the rights and responsibilities that arise from  
116 signing the declaration; and

117 (C) the opportunity to sign the declaration;

118 (ii) witness the signature of a birth mother or [~~biological~~] declarant father in accordance  
119 with Section 78-45e-3 if the signature occurs at the hospital;

120 (iii) enter the [~~biological~~] declarant father's information on the original birth certificate,

121 but only if the mother and biological father have signed a voluntary declaration of paternity or a  
122 court or administrative agency has issued an adjudication of paternity; and

123 (iv) file the completed declaration with the original birth certificate.

124 (b) If there is a presumptive father, the voluntary declaration will only be valid if the  
125 presumptive father also signs the voluntary declaration.

126 ~~[(b)]~~ (c) The state registrar shall file the information provided on the voluntary  
127 declaration of paternity form with the original birth certificate and may provide certified copies  
128 of the declaration of paternity as otherwise provided under Title 78, Chapter 45e, Voluntary  
129 Declaration of Paternity ~~[Act]~~.

130 ~~[(5) (a) For live births that occur outside a birthing facility, the certificate shall be~~  
131 ~~completed and filed by the physician, nurse, midwife, or other person primarily responsible for~~  
132 ~~providing assistance to the mother at the birth. If there is no such person, the father shall~~  
133 ~~complete and file the certificate. In his absence, the mother shall complete and file the~~  
134 ~~certificate, and in the event of her death or disability, the owner or operator of the premises~~  
135 ~~where the birth occurred shall do so.]~~

136 ~~[(b) The certificate shall be completed as fully as possible and shall include the date,~~  
137 ~~time, and place of birth, the mother's name, and the signature of the person completing the~~  
138 ~~certificate.]~~

139 (6) (a) The state registrar shall publish a form for the voluntary declaration of paternity,  
140 a description of the process for filing a voluntary declaration of paternity, and of the rights and  
141 responsibilities established or effected by that filing, in accordance with Title 78, Chapter 45e,  
142 Voluntary Declaration of Paternity ~~[Act]~~.

143 (b) Information regarding the form and services related to voluntary paternity  
144 establishment shall be made available to birthing facilities and to any other entity or individual  
145 upon request.

146 (7) The name of a declarant father may only be included on the birth certificate of a  
147 child of unmarried parents if:

148 (a) the mother and declarant father have signed a voluntary declaration of paternity; or

149 (b) a court or administrative agency has issued an adjudication of paternity.

150 (8) Voluntary declarations of paternity ~~[and]~~, adjudications of paternity by judicial or  
151 administrative agencies, and voluntary rescissions of paternity shall be filed with and

152 maintained by the state [~~registry~~] registrar for the purpose of comparing information with the  
153 state case registry maintained by the Office of Recovery Services pursuant to Section  
154 62A-11-104.

155 Section 3. Section **30-1-17.2** is amended to read:

156 **30-1-17.2. Action to determine validity of marriage -- Orders relating to parties,**  
157 **property, and children -- Presumption of paternity in context of marriage.**

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

164 [~~(2) Except as provided in Section 78-45a-1, children born to the parties after the date~~  
165 ~~of their marriage shall be deemed the legitimate children of both of the parties.]~~

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

167 (i) he and the mother of the child are married to each other and the child is born during  
168 the marriage;

169 (ii) he and the mother of the child were married to each other and the child is born  
170 within 300 days after the marriage is terminated by death, annulment, declaration of invalidity,  
171 or divorce, or after a decree of separation;

172 (iii) before the birth of the child, he and the mother of the child married each other in  
173 apparent compliance with law, even if the attempted marriage is, or could be, declared invalid  
174 and the child is born during the invalid marriage or within 300 days after its termination by  
175 death, annulment, declaration of invalidity, or divorce, or after a decree of separation; or

176 (iv) after the birth of the child, he and the mother of the child have married each other  
177 in apparent compliance with law, whether or not the marriage is, or could be declared invalid,  
178 and he voluntarily asserted his paternity of the child, and:

179 (A) the assertion is in a record filed with the state registrar;

180 (B) he agreed to be and is named as the child's father on the child's birth certificate; or

181 (C) he promised in a record to support the child as his own.

182 (b) A presumption of paternity established under this section may be rebutted only by

183 admissible genetic testing excluding the presumptive father or a paternity index of 150 or more  
184 showing that the alleged biological father cannot be excluded as the father.

185 (c) A final order or decree issued by a tribunal in which paternity is adjudicated, may  
186 not be set aside unless the court finds that the mother perpetrated a fraud in the establishment  
187 of the paternity and the father did not know or could not reasonably have known of the fraud at  
188 the time of the entry of the order.

189 Section 4. Section **30-3-5** is amended to read:

190 **30-3-5. Disposition of property -- Maintenance and health care of parties and**  
191 **children -- Division of debts -- Court to have continuing jurisdiction -- Custody and**  
192 **parent-time -- Determination of alimony -- Nonmeritorious petition for modification.**

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

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

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

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

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

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

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

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

210 (2) The court may include, in an order determining child support, an order assigning  
211 financial responsibility for all or a portion of child care expenses incurred on behalf of the  
212 dependent children, necessitated by the employment or training of the custodial parent. If the  
213 court determines that the circumstances are appropriate and that the dependent children would

214 be adequately cared for, it may include an order allowing the noncustodial parent to provide  
215 child care for the dependent children, necessitated by the employment or training of the  
216 custodial parent.

217 (3) The court has continuing jurisdiction to make subsequent changes or new orders for  
218 the custody of the children and their support, maintenance, health, and dental care, and for  
219 distribution of the property and obligations for debts as is reasonable and necessary.

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

223 [~~(4)~~] (5) (a) In determining parent-time rights of parents and visitation rights of  
224 grandparents and other members of the immediate family, the court shall consider the best  
225 interest of the child.

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

230 [~~(5)~~] (6) If a petition for modification of child custody or parent-time provisions of a  
231 court order is made and denied, the court shall order the petitioner to pay the reasonable  
232 attorneys' fees expended by the prevailing party in that action, if the court determines that the  
233 petition was without merit and not asserted or defended against in good faith.

234 [~~(6)~~] (7) If a petition alleges substantial noncompliance with a parent-time order by a  
235 parent, or a visitation order by a grandparent or other member of the immediate family pursuant  
236 to Section 78-32-12.2 where a visitation or parent-time right has been previously granted by the  
237 court, the court may award to the prevailing party costs, including actual attorney fees and  
238 court costs incurred by the prevailing party because of the other party's failure to provide or  
239 exercise court-ordered visitation or parent-time.

240 [~~(7)~~] (8) (a) The court shall consider at least the following factors in determining  
241 alimony:

- 242 (i) the financial condition and needs of the recipient spouse;
- 243 (ii) the recipient's earning capacity or ability to produce income;
- 244 (iii) the ability of the payor spouse to provide support;

245 (iv) the length of the marriage;  
246 (v) whether the recipient spouse has custody of minor children requiring support;  
247 (vi) whether the recipient spouse worked in a business owned or operated by the payor  
248 spouse; and

249 (vii) whether the recipient spouse directly contributed to any increase in the payor  
250 spouse's skill by paying for education received by the payor spouse or allowing the payor  
251 spouse to attend school during the marriage.

252 (b) The court may consider the fault of the parties in determining alimony.

253 (c) As a general rule, the court should look to the standard of living, existing at the  
254 time of separation, in determining alimony in accordance with Subsection [~~(7)~~] (8)(a).

255 However, the court shall consider all relevant facts and equitable principles and may, in its  
256 discretion, base alimony on the standard of living that existed at the time of trial. In marriages  
257 of short duration, when no children have been conceived or born during the marriage, the court  
258 may consider the standard of living that existed at the time of the marriage.

259 (d) The court may, under appropriate circumstances, attempt to equalize the parties'  
260 respective standards of living.

261 (e) When a marriage of long duration dissolves on the threshold of a major change in  
262 the income of one of the spouses due to the collective efforts of both, that change shall be  
263 considered in dividing the marital property and in determining the amount of alimony. If one  
264 spouse's earning capacity has been greatly enhanced through the efforts of both spouses during  
265 the marriage, the court may make a compensating adjustment in dividing the marital property  
266 and awarding alimony.

267 (f) In determining alimony when a marriage of short duration dissolves, and no  
268 children have been conceived or born during the marriage, the court may consider restoring  
269 each party to the condition which existed at the time of the marriage.

270 (g) (i) The court has continuing jurisdiction to make substantive changes and new  
271 orders regarding alimony based on a substantial material change in circumstances not  
272 foreseeable at the time of the divorce.

273 (ii) The court may not modify alimony or issue a new order for alimony to address  
274 needs of the recipient that did not exist at the time the decree was entered, unless the court  
275 finds extenuating circumstances that justify that action.

276 (iii) In determining alimony, the income of any subsequent spouse of the payor may not  
277 be considered, except as provided in this Subsection [~~(7)~~] (8).

278 (A) The court may consider the subsequent spouse's financial ability to share living  
279 expenses.

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

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

285 [~~(8)~~] (9) Unless a decree of divorce specifically provides otherwise, any order of the  
286 court that a party pay alimony to a former spouse automatically terminates upon the remarriage  
287 or death of that former spouse. However, if the remarriage is annulled and found to be void ab  
288 initio, payment of alimony shall resume if the party paying alimony is made a party to the  
289 action of annulment and his rights are determined.

290 [~~(9)~~] (10) Any order of the court that a party pay alimony to a former spouse terminates  
291 upon establishment by the party paying alimony that the former spouse is cohabitating with  
292 another person.

293 Section 5. Section 30-3-10.2 is amended to read:

294 **30-3-10.2. Joint legal or physical custody order -- Factors for court determination**  
295 **-- Public assistance.**

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

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

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

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

305 (c) whether each parent is capable of encouraging and accepting a positive relationship  
306 between the child and the other parent;

- 307 (d) whether both parents participated in raising the child before the divorce;
- 308 (e) the geographical proximity of the homes of the parents;
- 309 (f) the preference of the child if the child is of sufficient age and capacity to reason so  
310 as to form an intelligent preference as to joint legal custody;
- 311 (g) the maturity of the parents and their willingness and ability to protect the child from  
312 conflict that may arise between the parents; and
- 313 (h) any other factors the court finds relevant.

314 (3) The determination of the best interest of the child shall be by a preponderance of  
315 the evidence.

316 (4) The court shall inform both parties that ~~[(a)]~~ an order for joint ~~[legal]~~ physical  
317 custody may preclude eligibility for cash assistance provided under Title 35A, Chapter 3,  
318 Employment Support Act ~~[-and]~~.

319 ~~[(b) if cash assistance is required for the support of children of the parties at any time~~  
320 ~~subsequent to an order of joint legal custody, the order may be terminated under Section~~  
321 ~~30-3-10.4.]~~

322 (5) The court may order that where possible the parties attempt to settle future disputes  
323 by a dispute resolution method before seeking enforcement or modification of the terms and  
324 conditions of the order of joint legal custody or joint physical custody through litigation, except  
325 in emergency situations requiring ex parte orders to protect the child.

326 Section 6. Section **30-3-35.5** is amended to read:

327 **30-3-35.5. Minimum schedule for parent-time for children under five years of**  
328 **age.**

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

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

333 (a) for children under five months of age:

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

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

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

338 to the child; and  
339 (ii) two hours on holidays and in the years specified in Subsections 30-3-35(2)(f)  
340 through (i) preferably in the custodial home, the established child care setting, or other  
341 environment familiar to the child;  
342 (b) for children five months of age or older, but younger than ten months of age:  
343 (i) nine hours of parent-time per week to be specified by the court or the noncustodial  
344 parent preferably:  
345 (A) divided into three parent-time periods; and  
346 (B) in the custodial home, established child care setting, or other environment familiar  
347 to the child; and  
348 (ii) two hours on the holidays and in the years specified in Subsections 30-3-35(2)(f)  
349 through (i) preferably in the custodial home, the established child care setting, or other  
350 environment familiar to the child;  
351 (c) for children ten months of age or older, but younger than 18 months of age:  
352 (i) one eight hour visit per week to be specified by the noncustodial parent or court;  
353 (ii) one three hour visit per week to be specified by the noncustodial parent or court;  
354 (iii) eight hours on the holidays and in the years specified in Subsections ~~[30-3-5]~~  
355 30-3-35(2)(f) through (i); and  
356 (iv) brief phone contact with the noncustodial parent at least two times per week;  
357 (d) for children 18 months of age or older, but younger than three years of age:  
358 (i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the  
359 noncustodial parent or court; however, if the child is being cared for during the day outside his  
360 regular place of residence, the noncustodial parent may, with advance notice to the custodial  
361 parent, pick up the child from the caregiver at an earlier time and return him to the custodial  
362 parent by 8:30 p.m.;  
363 (ii) alternative weekends beginning on the first weekend after the entry of the decree  
364 from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;  
365 (iii) parent-time on holidays as specified in Subsections 30-3-35(2)(c) through (i);  
366 (iv) extended parent-time may be:  
367 (A) two one-week periods, separated by at least four weeks, at the option of the  
368 noncustodial parent;

- 369 (B) one week shall be uninterrupted time for the noncustodial parent;
- 370 (C) the remaining week shall be subject to parent-time for the custodial parent  
371 consistent with these guidelines; and
- 372 (D) the custodial parent shall have an identical one-week period of uninterrupted time  
373 for vacation; and
- 374 (v) brief phone contact with the noncustodial parent at least two times per week;
- 375 (e) for children three years of age or older, but younger than five years of age:
- 376 (i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the  
377 noncustodial parent or court; however, if the child is being cared for during the day outside his  
378 regular place of residence, the noncustodial parent may, with advance notice to the custodial  
379 parent, pick up the child from the caregiver at an earlier time and return him to the custodial  
380 parent by 8:30 p.m.;
- 381 (ii) alternative weekends beginning on the first weekend after the entry of the decree  
382 from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;
- 383 (iii) parent-time on holidays as specified in Subsections 30-3-35(2)(c) through (i);
- 384 (iv) extended parent-time with the noncustodial parent may be:
- 385 (A) two two-week periods, separated by at least four weeks, at the option of the  
386 noncustodial parent;
- 387 (B) one two-week period shall be uninterrupted time for the noncustodial parent;
- 388 (C) the remaining two-week period shall be subject to parent-time for the custodial  
389 parent consistent with these guidelines; and
- 390 (D) the custodial parent shall have an identical two-week period of uninterrupted time  
391 for vacation; and
- 392 (v) brief phone contact with the noncustodial parent at least two times per week.
- 393 (3) A parent shall notify the other parent at least 30 days in advance of extended  
394 parent-time or vacation weeks.
- 395 (4) Telephone contact shall be at reasonable hours and for reasonable duration.
- 396 Section 7. Section **62A-4a-114** is amended to read:
- 397 **62A-4a-114. Financial reimbursement by parent or legal guardian.**
- 398 (1) The division shall seek reimbursement of funds it has expended on behalf of a child  
399 in the protective custody, temporary custody, or custody of the division, from the child's

400 parents or legal guardians in accordance with an order for child support under Section  
401 78-3a-906.

402 ~~[(2) The parent or legal guardian is only responsible for child support with regard to a~~  
403 ~~case involving allegations of abuse or neglect against the parent or legal guardian if those~~  
404 ~~allegations are substantiated.]~~

405 (2) A parent or any other obligated person is not responsible for support for periods of  
406 time that a child is removed upon a finding by the Juvenile Court that there were insufficient  
407 grounds for that removal and that child is returned to the home of the parent, parents, or legal  
408 guardians based upon that finding.

409 (3) In the event that the Juvenile Court finds that there were insufficient grounds for  
410 the initial removal, but that the child is to remain in the custody of the state, the Juvenile Court  
411 shall order that the parents or any other obligated persons are responsible for support from the  
412 point at which it became improper to return the child to the home of his or her parent, parents,  
413 or legal guardians.

414 ~~[(3)]~~ (4) The attorney general shall represent the division in any legal action taken to  
415 enforce this section.

416 Section 8. Section **62A-11-104** is amended to read:

417 **62A-11-104. Duties of office.**

418 The office has the following duties:

419 (1) to provide child support services if:

420 (a) the office has received an application for child support services;

421 (b) the state has provided public assistance; or

422 (c) a child lives out of the home in the protective custody, temporary custody, or  
423 custody or care of the state ~~[or another party for at least 30 days];~~

424 (2) to carry out the obligations of the department contained in this chapter and in Title  
425 78, Chapters 45, Uniform Civil Liability for Support Act, Chapter 45a, Uniform Act on  
426 Paternity, and Chapter 45f, Uniform Interstate Family Support Act, for the purpose of  
427 collecting child support;

428 (3) to recover public assistance provided to persons for which they were ineligible;

429 (4) to collect money due the department which could act to offset expenditures by the  
430 state;

431 (5) to cooperate with the federal government in programs designed to recover health  
432 and social service funds;

433 (6) to collect civil or criminal assessments, fines, fees, amounts awarded as restitution,  
434 and reimbursable expenses owed to the state or any of its political subdivisions, if the office  
435 has contracted to provide collection services;

436 (7) to implement income withholding for collection of child support in accordance with  
437 Part 4, Income Withholding in IV-D Cases, of this chapter;

438 (8) to enter into agreements with financial institutions doing business in the state to  
439 develop and operate, in coordination with such financial institutions, a data match system in the  
440 manner provided for in Section 62A-11-304.5;

441 (9) to establish and maintain the state case registry in the manner required by the Social  
442 Security Act, 42 U.S.C. Sec. 654a, which shall include a record in each case of:

443 (a) the amount of monthly or other periodic support owed under the order, and other  
444 amounts, including arrearages, interest, late payment penalties, or fees, due or overdue under  
445 the order;

446 (b) any amount described in Subsection (9)(a) that has been collected;

447 (c) the distribution of collected amounts;

448 (d) the birth date of any child for whom the order requires the provision of support; and

449 (e) the amount of any lien imposed with respect to the order pursuant to this part;

450 (10) to contract with the Department of Workforce Services to establish and maintain  
451 the new hire registry created under Section 35A-7-103;

452 (11) to determine whether an individual who has applied for or is receiving cash  
453 assistance or Medicaid is cooperating in good faith with the office as required by Section  
454 62A-11-307.2;

455 (12) to finance any costs incurred from collections, fees, General Fund appropriation,  
456 contracts, and federal financial participation; and

457 (13) to provide notice to a noncustodial parent in accordance with Section  
458 62A-11-304.4 of the opportunity to contest the accuracy of allegations by a custodial parent of  
459 nonpayment of past-due child support, prior to taking action against a noncustodial parent to  
460 collect the alleged past-due support.

461 Section 9. Section **62A-11-304.4** is amended to read:

462           **62A-11-304.4. Filing of location information -- Service of process.**

463           (1) (a) Upon the entry of an order in a proceeding to establish paternity or to establish,  
464 modify, or enforce a support order, each party shall file identifying information and shall  
465 update that information as changes occur:

466           (i) with the court or administrative agency that conducted the proceeding; and

467           (ii) after October 1, 1998, with the state case registry.

468           (b) The identifying information required under Subsection (1)(a) shall include the  
469 person's social security number, driver's license number, residential and mailing addresses,  
470 telephone numbers, the name, address, and telephone number of employers, and any other data  
471 required by the United States Secretary of Health and Human Services.

472           (c) In any subsequent child support action involving the office or between the parties,  
473 state due process requirements for notice and service of process shall be satisfied as to a party  
474 upon:

475           (i) a sufficient showing that diligent effort has been made to ascertain the location of  
476 the party; and

477           (ii) delivery of notice to the most recent residential or employer address filed with the  
478 court, administrative agency, or state case registry under Subsection (1)(a).

479           (2) (a) The office shall provide individuals who are applying for or receiving services  
480 under this chapter or who are parties to cases in which services are being provided under this  
481 chapter:

482           (i) with notice of all proceedings in which support obligations might be established or  
483 modified; and

484           (ii) with a copy of any order establishing or modifying a child support obligation, or in  
485 the case of a petition for modification, a notice of determination that there should be no change  
486 in the amount of the child support award, within 14 days after issuance of such order or  
487 determination.

488           (b) Notwithstanding Subsection (2)(a)(ii), notice in the case of an interstate order shall  
489 be provided in accordance with Section 78-45f-614.

490           (3) Service of all notices and orders under this part shall be made in accordance with  
491 Title 63, Chapter 46b, Administrative Procedures Act, the Utah Rules of Civil Procedure, or  
492 this section.

493 (4) Consistent with Title 63, Chapter 2, Government Records Access and Management  
494 Act, the office shall adopt procedures to classify records to prohibit the unauthorized use or  
495 disclosure of information relating to a proceeding to:

- 496 (a) establish paternity; or  
497 (b) establish or enforce support.

498 (5) (a) The office shall, upon written request, provide location information available in  
499 its files on a custodial or noncustodial parent to the other party or the other party's legal counsel  
500 provided that:

501 (i) the party seeking the information produces a copy of the parent-time order signed by  
502 the court;

503 (ii) the information has not been safeguarded in accordance with Section 454 of the  
504 Social Security Act;

505 (iii) the party whose location is being sought has been afforded notice in accordance  
506 with this section [~~62A-11-304.4~~] of the opportunity to contest release of the information;

507 (iv) the party whose location is being sought has not provided the office with a copy of  
508 a protective order, a current court order prohibiting disclosure, a current court order limiting or  
509 prohibiting the requesting person's contact with the party or child whose location is being  
510 sought, a criminal order, an administrative order pursuant to Section 62A-4a-116.5, or  
511 documentation of a pending proceeding for any of the above; and

512 (v) there is no other state or federal law that would prohibit disclosure.

513 (b) "Location information" shall consist of the current residential address of the  
514 custodial or noncustodial parent and, if different and known to the office, the current residence  
515 of any children who are the subject of the parent-time order. If there is no current residential  
516 address available, the person's place of employment and any other location information shall be  
517 disclosed.

518 (c) For the purposes of this section, "reason to believe" under Section 454 of the Social  
519 Security Act means that the person seeking to safeguard information has provided to the office  
520 a copy of a protective order, current court order prohibiting disclosure, current court order  
521 prohibiting or limiting the requesting person's contact with the party or child whose location is  
522 being sought, or criminal order signed by a court of competent jurisdiction, an administrative  
523 order pursuant to Section 62A-4a-116.5, or documentation of a pending proceeding for any of

524 the above.

525 (d) Neither the state, the department, the office nor its employees shall be liable for any  
526 information released in accordance with this section.

527 Section 10. Section **62A-11-312.5** is amended to read:

528 **62A-11-312.5. Liens by operation of law and writs of garnishment.**

529 (1) Each payment or installment of child support is, on and after the date it is due, a  
530 judgment with the same attributes and effect of any judgment of a district court in accordance  
531 with Section 78-45-9.3 and for purposes of Section 78-22-1.

532 (2) (a) A judgment under Subsection (1) or final administrative order shall constitute a  
533 lien against the real property of the obligor upon the filing of a notice of judgment-lien in the  
534 district court where the obligor's real property is located if the notice:

535 [~~(i) identifies this section;~~]

536 [~~(ii)~~] (i) specifies the amount of past-due support; and

537 [~~(iii)~~] (ii) complies with the procedural requirements of Section 78-22-1.

538 (b) Rule 69, Utah Rules of Civil Procedure, shall apply to any action brought to  
539 execute a judgment or final administrative order under this section against real or personal  
540 property in the obligor's possession.

541 [~~(c) A lien under this Subsection (2) shall continue for a period of eight years from the~~  
542 ~~time of docketing unless previously satisfied.~~]

543 (3) (a) The office may issue a writ of garnishment against the obligor's personal  
544 property in the possession of a third party for a judgment under Subsection (1) or a final  
545 administrative order in the same manner and with the same effect as if the writ were issued on  
546 a judgment of a district court if:

547 (i) the judgment or final administrative order is recorded on the office's automated case  
548 registry; and

549 (ii) the writ is signed by the director or the director's designee and served by certified  
550 mail, return receipt requested, or as prescribed by Rule 4, Utah Rules of Civil Procedure.

551 (b) A writ of garnishment issued under Subsection (3)(a) is subject to the procedures  
552 and due process protections provided by Rule 64D, Utah Rules of Civil Procedure, except as  
553 provided by Section 62A-11-316.

554 Section 11. Section **70A-3-311** is amended to read:

555 **70A-3-311. Accord and satisfaction by use of instrument.**

556 (1) If a person against whom a claim is asserted proves that that person in good faith  
557 tendered an instrument to the claimant as full satisfaction of the claim, the amount of the claim  
558 was unliquidated or subject to a bona fide dispute, and the claimant obtained payment of the  
559 instrument, the following subsections apply.

560 (2) Unless Subsection (3) applies, the claim is discharged if the person against whom  
561 the claim is asserted proves that the instrument or an accompanying written communication  
562 contained a conspicuous statement to the effect that the instrument was tendered as full  
563 satisfaction of the claim.

564 (3) Subject to Subsection (4), a claim is not discharged under Subsection (2) if either of  
565 the following applies:

566 (a) The claimant, if an organization, proves that:

567 (i) within a reasonable time before the tender, the claimant sent a conspicuous  
568 statement to the person against whom the claim is asserted, which states that communications  
569 concerning disputed debts, including an instrument tendered as full satisfaction of a debt, are to  
570 be sent to a designated person, office, or place; and

571 (ii) the instrument or accompanying communication was not received by that  
572 designated person, office, or place.

573 (b) The claimant, whether or not an organization, proves that within 90 days after  
574 payment of the instrument, the claimant tendered repayment of the amount of the instrument to  
575 the person against whom the claim is asserted. This Subsection (3)(b) does not apply if the  
576 claimant is an organization that sent a statement complying with Subsection (3)(a)(i).

577 (4) A claim is discharged if the person against whom the claim is asserted proves that  
578 within a reasonable time before collection of the instrument was initiated, the claimant, or an  
579 agent of the claimant having direct responsibility with respect to the disputed obligation, knew  
580 that the instrument was tendered in full satisfaction of the claim.

581 (5) Merely writing a statement on a check which declares that a child support  
582 obligation is paid in full is not sufficient to bind the recipient who endorses the check. Child  
583 support obligations are considered owing unless paid in full or otherwise ordered by a tribunal.

584 Section 12. Section **78-3a-118** is amended to read:

585 **78-3a-118. Adjudication of jurisdiction of juvenile court -- Disposition of cases --**

586 **Enumeration of possible court orders -- Considerations of court -- Obtaining DNA**  
587 **sample.**

588 (1) (a) When a minor is found to come within the provisions of Section 78-3a-104, the  
589 court shall so adjudicate. The court shall make a finding of the facts upon which it bases its  
590 jurisdiction over the minor. However, in cases within the provisions of Subsection  
591 78-3a-104(1), findings of fact are not necessary.

592 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of  
593 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided  
594 to the school superintendent of the district in which the minor resides or attends school. Notice  
595 shall be made to the district superintendent within three days of the adjudication and shall  
596 include the specific offenses for which the minor was adjudicated.

597 (2) Upon adjudication the court may make the following dispositions by court order:

598 (a) (i) The court may place the minor on probation or under protective supervision in  
599 the minor's own home and upon conditions determined by the court, including compensatory  
600 service as provided in Section 78-11-20.7.

601 (ii) The court may place the minor in state supervision with the probation department  
602 of the court, under the legal custody of:

603 (A) his parent or guardian;

604 (B) the Division of Youth Corrections; or

605 (C) the Division of Child and Family Services.

606 (iii) If the court orders probation or state supervision, the court shall direct that notice  
607 of its order be provided to designated persons in the local law enforcement agency and the  
608 school or transferee school, if applicable, which the minor attends. The designated persons  
609 may receive the information for purposes of the minor's supervision and student safety.

610 (iv) Any employee of the local law enforcement agency and the school which the  
611 minor attends who discloses the court's order of probation is not:

612 (A) civilly liable except when the disclosure constitutes fraud or malice as provided in  
613 Section 63-30-4; and

614 (B) civilly or criminally liable except when the disclosure constitutes a knowing  
615 violation of Section 63-2-801.

616 (b) The court may place the minor in the legal custody of a relative or other suitable

617 person, with or without probation or protective supervision, but the juvenile court may not  
618 assume the function of developing foster home services.

619 (c) (i) The court may:

620 (A) vest legal custody of the minor in the Division of Child and Family Services,  
621 Division of Youth Corrections, or the Division of Substance Abuse and Mental Health; and

622 (B) order the Department of Human Services to provide dispositional  
623 recommendations and services.

624 (ii) For minors who may qualify for services from two or more divisions within the  
625 Department of Human Services, the court may vest legal custody with the department.

626 (iii) (A) Minors who are committed to the custody of the Division of Child and Family  
627 Services on grounds other than abuse or neglect are subject to the provisions of Title 78,  
628 Chapter 3a, Part 3A, Minors in Custody on Grounds Other Than Abuse or Neglect, and Title  
629 62A, Chapter 4a, Part 2A, Minors in Custody on Grounds Other Than Abuse or Neglect.

630 (B) Prior to the court entering an order to place a minor in the custody of the Division  
631 of Child and Family Services on grounds other than abuse or neglect, the court shall provide  
632 the division with notice of the hearing no later than five days before the time specified for the  
633 hearing so the division may attend the hearing.

634 (C) Prior to committing a minor to the custody of the Division of Child and Family  
635 Services, the court shall make a finding as to what reasonable efforts have been attempted to  
636 prevent the minor's removal from his home.

637 (d) (i) The court may commit the minor to the Division of Youth Corrections for secure  
638 confinement.

639 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect,  
640 or dependency under Subsection 78-3a-104(1)(c) may not be committed to the Division of  
641 Youth Corrections.

642 (e) The court may commit the minor, subject to the court retaining continuing  
643 jurisdiction over him, to the temporary custody of the Division of Youth Corrections for  
644 observation and evaluation for a period not to exceed 45 days, which period may be extended  
645 up to 15 days at the request of the director of the Division of Youth Corrections.

646 (f) (i) The court may commit the minor to a place of detention or an alternative to  
647 detention for a period not to exceed 30 days subject to the court retaining continuing

648 jurisdiction over the minor. This commitment may be stayed or suspended upon conditions  
649 ordered by the court.

650 (ii) This Subsection (2)(f) applies only to those minors adjudicated for:

651 (A) an act which if committed by an adult would be a criminal offense; or

652 (B) contempt of court under Section 78-3a-901.

653 (g) The court may vest legal custody of an abused, neglected, or dependent minor in  
654 the Division of Child and Family Services or any other appropriate person in accordance with  
655 the requirements and procedures of Title 78, Chapter 3a, Part 3, Abuse, Neglect, and  
656 Dependency Proceedings.

657 (h) The court may place the minor on a ranch or forestry camp, or similar facility for  
658 care and also for work, if possible, if the person, agency, or association operating the facility  
659 has been approved or has otherwise complied with all applicable state and local laws. A minor  
660 placed in a forestry camp or similar facility may be required to work on fire prevention,  
661 forestation and reforestation, recreational works, forest roads, and on other works on or off the  
662 grounds of the facility and may be paid wages, subject to the approval of and under conditions  
663 set by the court.

664 (i) The court may order the minor to repair, replace, or otherwise make restitution for  
665 damage or loss caused by the minor's wrongful act, including costs of treatment as stated in  
666 Section 78-3a-318 and impose fines in limited amounts. If a minor has been returned to this  
667 state under the Interstate Compact on Juveniles, the court may order the minor to make  
668 restitution for costs expended by any governmental entity for the return.

669 (j) The court may issue orders necessary for the collection of restitution and fines  
670 ordered by the court, including garnishments, wage withholdings, and executions.

671 (k) (i) The court may through its probation department encourage the development of  
672 employment or work programs to enable minors to fulfill their obligations under Subsection  
673 (2)(i) and for other purposes considered desirable by the court.

674 (ii) Consistent with the order of the court, the probation officer may permit the minor  
675 found to be within the jurisdiction of the court to participate in a program of work restitution or  
676 compensatory service in lieu of paying part or all of the fine imposed by the court.

677 (l) (i) In violations of traffic laws within the court's jurisdiction, the court may, in  
678 addition to any other disposition authorized by this section:

679 (A) restrain the minor from driving for periods of time the court considers necessary;  
680 and

681 (B) take possession of the minor's driver license.

682 (ii) The court may enter any other disposition under Subsection (2)(1)(i); however, the  
683 suspension of driving privileges for an offense under Section 78-3a-506 are governed only by  
684 Section 78-3a-506.

685 (m) (i) When a minor is found within the jurisdiction of the juvenile court under  
686 Section 78-3a-104 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug  
687 Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court  
688 shall, in addition to any fines or fees otherwise imposed, order that the minor perform a  
689 minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory  
690 completion of an approved substance abuse prevention or treatment program may be credited  
691 by the court as compensatory service hours.

692 (ii) When a minor is found within the jurisdiction of the juvenile court under Section  
693 78-3a-104 because of a violation of Section 32A-12-209 or Subsection 76-9-701(1), the court  
694 may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order  
695 that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory  
696 service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an  
697 approved substance abuse prevention or treatment program may be credited by the court as  
698 compensatory service hours.

699 (n) The court may order that the minor be examined or treated by a physician, surgeon,  
700 psychiatrist, or psychologist or that he receive other special care. For these purposes the court  
701 may place the minor in a hospital or other suitable facility.

702 (o) (i) The court may appoint a guardian for the minor if it appears necessary in the  
703 interest of the minor, and may appoint as guardian a public or private institution or agency in  
704 which legal custody of the minor is vested.

705 (ii) In placing a minor under the guardianship or legal custody of an individual or of a  
706 private agency or institution, the court shall give primary consideration to the welfare of the  
707 minor. When practicable, the court may take into consideration the religious preferences of the  
708 minor and of the minor's parents.

709 (p) (i) In support of a decree under Section 78-3a-104, the court may order reasonable

710 conditions to be complied with by the parents or guardian, the minor, the minor's custodian, or  
711 any other person who has been made a party to the proceedings. Conditions may include:

- 712 (A) parent-time by the parents or one parent;
- 713 (B) restrictions on the minor's associates;
- 714 (C) restrictions on the minor's occupation and other activities; and
- 715 (D) requirements to be observed by the parents or custodian.

716 (ii) A minor whose parents or guardians successfully complete a family or other  
717 counseling program may be credited by the court for detention, confinement, or probation time.

718 (q) The court may order the minor to be placed in the legal custody of the Division of  
719 Substance Abuse and Mental Health or committed to the physical custody of a local mental  
720 health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15,  
721 Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental  
722 Health.

723 (r) (i) The court may make an order committing a minor within its jurisdiction to the  
724 Utah State Developmental Center if the minor has mental retardation in accordance with the  
725 provisions of Title 62A, Chapter 5, Part 3, Admission to Mental Retardation Facility.

726 (ii) The court shall follow the procedure applicable in the district courts with respect to  
727 judicial commitments to the Utah State Developmental Center when ordering a commitment  
728 under Subsection (2)(r)(i).

729 (s) The court may terminate all parental rights upon a finding of compliance with the  
730 provisions of Title 78, Chapter 3a, Part 4, Termination of Parental Rights Act.

731 (t) The court may make any other reasonable orders for the best interest of the minor or  
732 as required for the protection of the public, except that a person younger than 18 years of age  
733 may not be committed to jail or prison.

734 (u) The court may combine the dispositions listed in this section if they are compatible.

735 (v) Before depriving any parent of custody, the court shall give due consideration to the  
736 rights of parents concerning their minor. The court may transfer custody of a minor to another  
737 person, agency, or institution in accordance with the requirements and procedures of Title 78,  
738 Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings.

739 (w) Except as provided in Subsection (2)(y)(i), an order under this section for  
740 probation or placement of a minor with an individual or an agency shall include a date certain

741 for a review of the case by the court. A new date shall be set upon each review.

742 (x) In reviewing foster home placements, special attention shall be given to making  
743 adoptable minors available for adoption without delay.

744 (y) (i) The juvenile court may enter an order of permanent custody and guardianship  
745 with a relative or individual of a minor where the court has previously acquired jurisdiction as  
746 a result of an adjudication of abuse, neglect, or dependency, excluding cases arising under  
747 Subsection 78-3a-105(4). The juvenile court may enter an order for child support on behalf of  
748 the minor child against the natural or adoptive parents of the child.

749 (ii) Orders under Subsection (2)(y)(i):

750 (A) shall remain in effect until the minor reaches majority;

751 (B) are not subject to review under Section 78-3a-119; and

752 (C) may be modified by petition or motion as provided in Section 78-3a-903.

753 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and  
754 permanent orders of custody and guardianship do not expire with a termination of jurisdiction  
755 of the juvenile court.

756 (3) In addition to the dispositions described in Subsection (2), when a minor comes  
757 within the court's jurisdiction he may be given a choice by the court to serve in the National  
758 Guard in lieu of other sanctions, provided:

759 (a) the minor meets the current entrance qualifications for service in the National  
760 Guard as determined by a recruiter, whose determination is final;

761 (b) the minor is not under the jurisdiction of the court for any act that:

762 (i) would be a felony if committed by an adult;

763 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

764 (iii) was committed with a weapon; and

765 (c) the court retains jurisdiction over the minor under conditions set by the court and  
766 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

767 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of  
768 the court as described in Subsection 53-10-403(3). The specimen shall be obtained by  
769 designated employees of the court or, if the minor is in the legal custody of the Division of  
770 Youth Corrections, then by designated employees of the division under Subsection  
771 53-10-404(5)(b).

772 (b) The responsible agency shall ensure that employees designated to collect the saliva  
773 DNA specimens receive appropriate training and that the specimens are obtained in accordance  
774 with accepted protocol.

775 (c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA  
776 Specimen Restricted Account created in Section 53-10-407.

777 (d) Payment of the reimbursement is second in priority to payments the minor is  
778 ordered to make for restitution under this section and treatment under Section 78-3a-318.

779 Section 13. Section **78-3a-906** is amended to read:

780 **78-3a-906. Child support obligation when custody of a minor is vested in an**  
781 **individual or institution.**

782 (1) When legal custody of a minor is vested by the court in a secure youth corrections  
783 facility or any other state department, division, or agency other than his parents, or if the  
784 guardianship of the child has been granted to another party and an agreement for a guardianship  
785 subsidy has been signed by the guardian, the court shall order the parents, a parent, or any other  
786 obligated person to pay child support for each month the child is in custody. In the same  
787 proceeding the court shall inform the parents, a parent, or any other obligated person, verbally  
788 and in writing, of the requirement to pay child support in accordance with Title 78, Chapter 45,  
789 Uniform Civil Liability for Support Act.

790 (2) If legal custody of a minor is vested by the court in a secure youth corrections  
791 facility, or any other state department, division, or agency, the court may refer the  
792 establishment of a child support order to the Office of Recovery Services. The referral shall be  
793 sent to the Office of Recovery Services within three working days of the hearing. Support  
794 obligation amounts shall be set by the Office of Recovery Services in accordance with Title 78,  
795 Chapter 45, Uniform Civil Liability for Support Act.

796 (3) If referred to the Office of Recovery Services pursuant to Subsection (2) [applies],  
797 the court shall also inform the parties that they are required to contact the Office of Recovery  
798 Services within 30 days of the date of the hearing to establish a child support order and the  
799 penalty in Subsection (5) for failing to do so. If there is no existing child support order for the  
800 child, the liability for support shall accrue beginning on the 61st day following the hearing that  
801 occurs the first time the court vests custody of the child in a secure youth corrections facility, or  
802 any other state department, division, or agency other than his parents.

803 (4) If a child is returned home and legal custody is subsequently vested by the court in  
804 a secure youth corrections facility or any other state department, division, or agency other than  
805 his parents, the liability for support shall accrue from the date the minor is subsequently  
806 removed from the home, including time spent in detention or sheltered care.

807 (5) (a) If the parents, parent, or other obligated person meets with the Office of  
808 Recovery Services within 30 days of the date of the hearing, the child support order may not  
809 include a judgment for past due support for more than two months.

810 (b) Notwithstanding Subsection (5)(a), the court may order the liability of support to  
811 begin to accrue from the date of the proceeding referenced in Subsection (1) if:

812 (i) the parents, parent, or any other person obligated fails to meet with the Office of  
813 Recovery Services within 30 days after being informed orally and in writing by the court of that  
814 requirement; and

815 (ii) the Office of Recovery Services took reasonable steps under the circumstances to  
816 contact the parents, parent, or other person obligated within the subsequent 30-day period to  
817 facilitate the establishment of the child support order.

818 (c) For purposes of Subsection (5)(b)(ii), the Office of Recovery Services shall be  
819 presumed to have taken reasonable steps if the office:

820 (i) has a signed, returned receipt for a certified letter mailed to the address of the  
821 parents, parent, or other obligated person regarding the requirement that a child support order  
822 be established; or

823 (ii) has had a documented conversation, whether by telephone or in person, with the  
824 parents, parent, or other obligated person regarding the requirement that a child support order  
825 be established.

826 (6) In collecting arrears, the Office of Recovery Services shall comply with Section  
827 62A-11-320 in setting a payment schedule or demanding payment in full.

828 (7) Unless otherwise ordered, the parents or other person shall pay the child support to  
829 the Office of Recovery Services. The clerk of the court, the Office of Recovery Services, or the  
830 Department of Human Services and its divisions shall have authority to receive periodic  
831 payments for the care and maintenance of the minor, such as Social Security payments or  
832 railroad retirement payments made in the name of or for the benefit of the minor.

833 (8) No court order under this section against a parent or other person shall be entered,

834 unless notice of hearing has been served within the state, a voluntary appearance is made, or a  
835 waiver of service given. The notice shall specify that a hearing with respect to the financial  
836 support of the minor will be held.

837 (9) An existing child support order payable to a parent or other obligated person shall  
838 be assigned to the Department of Human Services as provided in Section 62A-1-117.

839 (10) (a) Subsections [~~(2)~~] (3) through (9) shall not apply if legal custody of a minor is  
840 vested by the court in an individual.

841 (b) If legal custody of a minor is vested by the court in an individual, the court may  
842 order the parents, a parent, or any other obligated person to pay child support to the individual.  
843 In the same proceeding the court shall inform the parents, a parent, or any other obligated  
844 person, verbally and in writing, of the requirement to pay child support in accordance with  
845 Title 78, Chapter 45, Uniform Civil Liability for Support Act.

846 Section 14. Section **78-22-1** is amended to read:

847 **78-22-1. Duration of judgment -- Judgment as a lien upon real property --**  
848 **Abstract of judgment -- Small claims judgment not a lien -- Appeal of judgment -- Child**  
849 **support orders.**

850 (1) [~~Except as provided in Subsection (6), judgments~~] Judgments shall continue for  
851 eight years from the date of entry in a court unless previously satisfied or unless enforcement of  
852 the judgment is stayed in accordance with law.

853 (2) Prior to July 1, 1997, except as limited by Subsections (4) and (5), the entry of  
854 judgment by a district court creates a lien upon the real property of the judgment debtor, not  
855 exempt from execution, owned or acquired during the existence of the judgment, located in the  
856 county in which the judgment is entered.

857 (3) An abstract of judgment issued by the court in which the judgment is entered may  
858 be filed in any court of this state and shall have the same force and effect as a judgment entered  
859 in that court.

860 (4) Prior to July 1, 1997, and after May 15, 1998, a judgment entered in the small  
861 claims division of any court shall not qualify as a lien upon real property unless abstracted to  
862 the civil division of the district court and recorded in accordance with Subsection (3).

863 (5) (a) If any judgment is appealed, upon deposit, with the court where the notice of  
864 appeal is filed, of cash or other security in a form and amount considered sufficient by the court

865 that rendered the judgment to secure the full amount of the judgment, together with ongoing  
866 interest and any other anticipated damages or costs, including attorney's fees and costs on  
867 appeal, the lien created by the judgment shall be terminated as provided in Subsection (5)(b).

868 (b) Upon the deposit of sufficient security as provided in Subsection (5)(a), the court  
869 shall enter an order terminating the lien created by the judgment and granting the judgment  
870 creditor a perfected lien in the deposited security as of the date of the original judgment.

871 (6) (a) [Enforcement of a] A child support order [may be pursued at any time] or a sum  
872 certain judgment for past due support may be enforced:

873 (i) within four years after the date the youngest child reaches majority[-]; or

874 (ii) eight years from the date of entry of the sum certain judgment entered by a tribunal.

875 (b) The longer period of duration shall apply in every order.

876 (c) A sum certain judgment may be renewed to extend the duration.

877 (7) (a) After July 1, 2002, a judgment entered by a district court or a justice court in the  
878 state becomes a lien upon real property if:

879 (i) the judgment or an abstract of the judgment containing the information identifying  
880 the judgment debtor as described in Subsection 78-22-1.5(4) is recorded in the office of the  
881 county recorder; or

882 (ii) the judgment or an abstract of the judgment and a separate information statement of  
883 the judgment creditor as described in Subsection 78-22-1.5(5) is recorded in the office of the  
884 county recorder.

885 (b) The judgment shall run from the date of entry by the district court or justice court.

886 (c) The real property subject to the lien includes all the real property of the judgment  
887 debtor:

888 (i) in the county in which the recording under Subsection (7)(a)(i) or (ii) occurs; and

889 (ii) owned or acquired at any time by the judgment debtor during the time the judgment  
890 is effective.

891 (d) State agencies are exempt from the recording requirement of Subsection (7)(a).

892 (8) (a) A judgment referred to in Subsection (7) shall be entered under the name of the  
893 judgment debtor in the judgment index in the office of the county recorder as required in  
894 Section 17-21-6.

895 (b) A judgment containing a legal description shall also be abstracted in the appropriate

896 tract index in the office of the county recorder.

897 Section 15. Section **78-45-7.2** is amended to read:

898 **78-45-7.2. Application of guidelines -- Rebuttal.**

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

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

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

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

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

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

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

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

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

921 [~~(4)~~] ~~(6)~~ (a) Natural or adoptive children of either parent who live in the home of that  
922 parent and are not children in common to both parties may at the option of either party be taken  
923 into account under the guidelines in setting or modifying a child support award, as provided in  
924 Subsection [~~(5)~~] (7). Credit may not be given if:

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

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

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

932 ~~[(5)]~~ (7) In a proceeding to modify an existing award, consideration of natural or  
933 adoptive children ~~[other than those]~~ born after entry of the order and who are not in common to  
934 both parties may ~~[be applied to mitigate an increase in the award but may not be applied to~~  
935 ~~justify a decrease in the award:]~~ not be applied:

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

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

940 ~~[(6)]~~ (8) (a) If a child support order has not been issued or modified within the previous  
941 three years, a parent, legal guardian, or the office may petition the court to adjust the amount of  
942 a child support order.

943 (b) Upon receiving a petition under Subsection ~~[(6)]~~ (8)(a), the court shall, taking into  
944 account the best interests of the child, determine whether there is a difference between the  
945 amount ordered and the amount that would be required under the guidelines. If there is a  
946 difference of 10% or more and the difference is not of a temporary nature, the court shall adjust  
947 the amount to that which is provided for in the guidelines.

948 (c) A showing of a substantial change in circumstances is not necessary for an  
949 adjustment under Subsection ~~[(6)]~~ (8)(b).

950 ~~[(7)]~~ (9) (a) A parent, legal guardian, or the office may at any time petition the court to  
951 adjust the amount of a child support order if there has been a substantial change in  
952 circumstances.

953 (b) For purposes of Subsection ~~[(7)]~~ (9)(a), a substantial change in circumstances may  
954 include:

955 (i) material changes in custody;

956 (ii) material changes in the relative wealth or assets of the parties;

957 (iii) material changes of 30% or more in the income of a parent;

958 (iv) material changes in the ability of a parent to earn;  
959 (v) material changes in the medical needs of the child; and  
960 (vi) material changes in the legal responsibilities of either parent for the support of  
961 others.

962 (c) Upon receiving a petition under Subsection ~~[(7)]~~ (9)(a), the court shall, taking into  
963 account the best interests of the child, determine whether a substantial change has occurred. If  
964 it has, the court shall then determine whether the change results in a difference of 15% or more  
965 between the amount of child support ordered and the amount that would be required under the  
966 guidelines. If there is such a difference and the difference is not of a temporary nature, the  
967 court shall adjust the amount of child support ordered to that which is provided for in the  
968 guidelines.

969 ~~[(8)]~~ (10) Notice of the opportunity to adjust a support order under Subsections ~~[(6)]~~  
970 (8) and ~~[(7)]~~ (9) shall be included in each child support order issued or modified after July 1,  
971 1997.

972 Section 16. Section **78-45-7.10** is amended to read:

973 **78-45-7.10. Adjustment when child becomes emancipated.**

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

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

981 ~~[(3) The income used for purposes of adjusting the support shall be the income of the  
982 parties at the time of the entry of the original order. If income was not listed in the findings or  
983 order and worksheets were not submitted, the parties may submit tax returns or other  
984 verification of the income.]~~

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

989 that adjusts the support back to the date of the emancipation of the child, the Office of  
990 Recovery Services may not be required to repay any difference in the support collected during  
991 the interim.

992 Section 17. Section **78-45-7.11** is amended to read:

993 **78-45-7.11. Reduction for extended parent-time.**

994 (1) (a) ~~[The child support order shall provide that the]~~ The base child support award  
995 shall be:

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

999 (ii) 25% for each child for time periods during which the child is with the noncustodial  
1000 parent by order of the court, or by written agreement of the parties for at least 14 of any 30  
1001 consecutive days of extended parent-time.

1002 (b) Subsection (1)(a) does not apply in cases in which there is a joint custody order.

1003 (2) If the dependent child is a client of cash assistance provided under Title 35A,  
1004 Chapter 3, Part 3, Family Employment Program, any agreement by the parties for reduction of  
1005 child support during extended parent-time shall be approved by the administrative agency.  
1006 ~~[However, normal]~~

1007 (3) Normal parent-time and holiday visits to the custodial parent shall not be  
1008 considered ~~[an interruption of the consecutive day requirement]~~ extended parent-time.

1009 (4) For cases receiving IV-D child support services in accordance with Title 62A,  
1010 Chapter 11, Parts 1, 3, and 4, to receive the adjustment the noncustodial parent shall provide  
1011 written documentation of the extended parent-time schedule, including the beginning and  
1012 ending dates, to the Office of Recovery Services in the form of either a court order or a  
1013 voluntary written agreement between the parties.

1014 (5) If the noncustodial parent complies with Subsection (4), owes no past-due support,  
1015 and pays the full, unadjusted amount of current child support due for the month of scheduled  
1016 extended parent-time and the following month, the Office of Recovery Services shall refund  
1017 the difference from the child support due to the custodial parent or the state, between the full  
1018 amount of current child support received during the month of extended parent-time and the  
1019 adjusted amount of current child support due:

1020 (a) from current support received in the month following the month of scheduled  
1021 extended parent-time; or

1022 (b) from current support received in the month following the month written  
1023 documentation of the scheduled extended parent-time is provided to the office, whichever  
1024 occurs later.

1025 (6) If the noncustodial parent complies with Subsection (4), owes past-due support, and  
1026 pays the full, unadjusted amount of current child support due for the month of scheduled  
1027 extended parent-time, the Office of Recovery Services shall apply the difference, from the child  
1028 support due to the custodial parent or the state, between the full amount of current child  
1029 support received during the month of extended parent-time and the adjusted amount of current  
1030 child support due, to the past-due support obligation in the case.

1031 (7) For cases not receiving IV-D child support services in accordance with Title 62A,  
1032 Chapter 11, Parts 1, 3, and 4, any potential adjustment of the support payment during the  
1033 month of extended visitation or any refund that may be due to the noncustodial parent from the  
1034 custodial parent, shall be resolved between the parents or through the court without  
1035 involvement by the Office of Recovery Services.

1036 [~~2~~] (8) For purposes of this section the per child amount to which the abatement  
1037 applies shall be calculated by dividing the base child support award by the number of children  
1038 included in the award.

1039 [~~3~~] (9) The reduction in this section does not apply to parents with joint physical  
1040 custody obligations calculated in accordance with Section 78-45-7.9.

1041 Section 18. Section **78-45-7.15** is amended to read:

1042 **78-45-7.15. Medical expenses.**

1043 (1) The court shall order that insurance for the medical expenses of the minor children  
1044 be provided by a parent if it is available at a reasonable cost.

1045 (2) In determining which parent shall be ordered to maintain insurance for medical  
1046 expenses, the court or administrative agency may consider the:

- 1047 (a) reasonableness of the cost;
- 1048 (b) availability of a group insurance policy;
- 1049 (c) coverage of the policy; and
- 1050 (d) preference of the custodial parent.

1051 (3) The order shall require each parent to share equally the out-of-pocket costs of the  
1052 premium actually paid by a parent for the children's portion of insurance.

1053 (4) The parent who is covering the children with insurance may receive a credit for the  
1054 other parent's share of the children's portion of the premium being paid against the base child  
1055 support award. The parent providing the insurance coverage may be entitled to receive credit  
1056 or recover the other parent's share of the cost if the parent's coverage for the children is being  
1057 provided by the parent's spouse or by another household member.

1058 [~~(4)~~] (5) The children's portion of the premium is a per capita share of the premium  
1059 actually paid. The premium expense for the children shall be calculated by dividing the  
1060 premium amount by the number of persons covered under the policy and multiplying the result  
1061 by the number of children in the instant case.

1062 [~~(5)~~] (6) The order shall require each parent to share equally all reasonable and  
1063 necessary uninsured medical expenses, including deductibles and copayments, incurred for the  
1064 dependent children.

1065 [~~(6)~~] (7) The parent ordered to maintain insurance shall provide verification of  
1066 coverage to the other parent, or to the Office of Recovery Services under Title IV of the Social  
1067 Security Act, 42 U.S.C. Section 601 et seq., upon initial enrollment of the dependent children,  
1068 and thereafter on or before January 2 of each calendar year. The parent shall notify the other  
1069 parent, or the Office of Recovery Services under Title IV of the Social Security Act, 42 U.S.C.  
1070 Section 601 et seq., of any change of insurance carrier, premium, or benefits within 30 calendar  
1071 days of the date he first knew or should have known of the change.

1072 [~~(7)~~] (8) A parent who incurs medical expenses shall provide written verification of the  
1073 cost and payment of medical expenses to the other parent within 30 days of payment.

1074 [~~(8)~~] (9) In addition to any other sanctions provided by the court, a parent incurring  
1075 medical expenses may be denied the right to receive credit for the expenses or to recover the  
1076 other parent's share of the expenses if that parent fails to comply with Subsections [~~(6)~~] (7) and  
1077 [~~(7)~~] (8).

1078 Section 19. Section **78-45-9** is amended to read:

1079 **78-45-9. Enforcement of right of support.**

1080 (1) (a) The obligee may enforce his right of support against the obligor. The office  
1081 may proceed pursuant to this chapter or any other applicable statute on behalf of:

- 1082 (i) the Department of Human Services;
- 1083 (ii) any other department or agency of this state that provides public assistance, as  
1084 defined by Subsection 62A-11-303 (3), to enforce the right to recover public assistance; or
- 1085 (iii) the obligee, to enforce the obligee's right of support against the obligor.
- 1086 (b) Whenever any court action is commenced by the office to enforce payment of the  
1087 obligor's support obligation, the attorney general or the county attorney of the county of  
1088 residence of the obligee shall represent the office.
- 1089 (2) (a) A person may not commence an action, file a pleading, or submit a written  
1090 stipulation to the court, without complying with Subsection (2)(b), if the purpose or effect of  
1091 the action, pleading, or stipulation is to:
- 1092 (i) establish paternity;
- 1093 (ii) establish or modify a support obligation;
- 1094 (iii) change the court-ordered manner of payment of support; [~~or~~]
- 1095 (iv) recover support due or owing[~~;~~]; or
- 1096 (v) appeal issues regarding child support laws.
- 1097 (b) (i) When taking an action described in Subsection (2)(a), a person must file an  
1098 affidavit with the court at the time the action is commenced, the pleading is filed, or the  
1099 stipulation is submitted stating whether child support services have been or are being provided  
1100 under Part IV of the Social Security Act, 42 U.S.C., Section 601 et seq., on behalf of a child  
1101 who is a subject of the action, pleading, or stipulation.
- 1102 (ii) If child support services have been or are being provided, under Part IV of the  
1103 Social Security Act, 42 U.S.C., Section 601 et seq., the person shall mail a copy of the affidavit  
1104 and a copy of the pleading or stipulation to the Office of the Attorney General, Child Support  
1105 Division.
- 1106 (iii) If notice is not given in accordance with this Subsection (2), the office is not  
1107 bound by any decision, judgment, agreement, or compromise rendered in the action. For  
1108 purposes of appeals, service must be made on the Office of the Director for the Office of  
1109 Recovery Services.
- 1110 (c) If IV-D services have been or are being provided, that person shall join the office as  
1111 a party to the action, or mail or deliver a written request to the Office of the Attorney General,  
1112 Child Support Division asking the office to join as a party to the action. A copy of that request,

1113 along with proof of service, shall be filed with the court. The office shall be represented as  
1114 provided in Subsection (1)(b).

1115 (3) Neither the attorney general nor the county attorney represents or has an  
1116 attorney-client relationship with the obligee or the obligor in carrying out the duties under this  
1117 chapter.

1118 Section 20. Section **78-45-9.3** is amended to read:

1119 **78-45-9.3. Payment under child support order -- Judgment.**

1120 (1) All monthly payments of child support shall be due on the 1st day of each month  
1121 for purposes of child support services pursuant to Title 62A, Chapter 11, Part 3, income  
1122 withholding services pursuant to Part 4, and income withholding procedures pursuant to Part 5.

1123 (2) For purposes of child support services and income withholding pursuant to Title  
1124 62A, Chapter 11, Part 3 and Part 4, child support is not considered past due until the 1st day of  
1125 the following month. For purposes other than those specified in Subsection (1) support shall  
1126 be payable 1/2 by the 5th day of each month and 1/2 by the 20th day of that month, unless the  
1127 order or decree provides for a different time for payment.

1128 (3) Each payment or installment of child or spousal support under any child support  
1129 order, as defined by Section 78-45-2, is, on and after the date it is due:

1130 (a) a judgment with the same attributes and effect of any judgment of a district court,  
1131 except as provided in Subsection (4);

1132 (b) entitled, as a judgment, to full faith and credit in this and in any other jurisdiction;  
1133 and

1134 (c) not subject to retroactive modification by this or any other jurisdiction, except as  
1135 provided in Subsection (4).

1136 (4) A child or spousal support payment under a child support order may be modified  
1137 with respect to any period during which a modification is pending, but only from the date of  
1138 service of the pleading on the obligee, if the obligor is the petitioner, or on the obligor, if the  
1139 obligee is the petitioner. ~~The~~ If the tribunal orders that the support should be modified, the  
1140 effective date of the modification shall be the month following service on the parent whose  
1141 support is affected. Once the tribunal determines that a modification is appropriate, the  
1142 tribunal shall order a judgment to be entered for any difference in the original order and the  
1143 modified amount for the period from the service of the pleading until the final order of

1144 modification is entered [~~for any difference in the original order and the modified amount~~].

1145 (5) For purposes of this section, "jurisdiction" means a state or political subdivision, a  
1146 territory or possession of the United States, the District of Columbia, and the Commonwealth  
1147 of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

1148 (6) The judgment provided for in Subsection (3)(a), to be effective and enforceable as a  
1149 lien against the real property interest of any third party relying on the public record, shall be  
1150 docketed in the district court in accordance with Sections 78-22-1 and 62A-11-312.5.

1151 Section 21. Section **78-45a-7** is amended to read:

1152 **78-45a-7. Authority for genetic testing.**

1153 (1) Upon motion of any party to the action, made at a time so as not to delay the  
1154 proceedings unduly, the court shall order the mother, the child, and the alleged father to submit  
1155 to genetic testing if the request is supported by a sworn statement by the requesting party:

1156 (a) alleging paternity and setting forth facts establishing a reasonable possibility of the  
1157 requisite sexual contact between the parties; or

1158 (b) denying paternity and setting forth facts establishing a reasonable possibility of the  
1159 nonexistence of sexual contact between the parties.

1160 (2) The court may, upon its own initiative, order the mother, the child, and the alleged  
1161 father to submit to genetic testing.

1162 (3) (a) The court shall order genetic testing:

1163 (i) of a type generally acknowledged as reliable by accreditation bodies designated by  
1164 the federal Secretary of Health and Human Services; [~~and~~]

1165 (ii) to be performed by a laboratory approved by such an accreditation body[-]; and

1166 (iii) to be performed by a laboratory that follows strict guidelines regarding chain of  
1167 custody of evidence which includes obtaining photographs of the parties at the time samples  
1168 are taken.

1169 (b) Except as provided in Subsection [~~(6)~~] (7), the cost of genetic testing shall be paid  
1170 by the party who requested it or shared between the parties if requested by the court, subject to  
1171 recoupment against the party who challenges the existence or nonexistence of paternity if the  
1172 result of the genetic test is contrary to the position of the challenger.

1173 (4) Upon request by a party, a court may order a second genetic test that complies with  
1174 Subsection (3) if paid for in advance by the requesting party and requested within 15 days of

1175 the result of the first genetic test being sent to the last-known address on file under Section  
1176 78-45a-2.

1177 (5) If the court orders a second genetic test in accordance with Subsection (4), the  
1178 additional testing must be completed within no more than 45 days of the court's order or the  
1179 requesting party's objection to the first test will be automatically denied. If failure to complete  
1180 the test occurs because of noncooperation of the mother or unavailability of the child, the time  
1181 will be tolled.

1182 [~~5~~] (6) If any party refuses to submit to genetic testing, the court may resolve the  
1183 question of paternity against that party, or may enforce its order if the rights of others and the  
1184 interests of justice so require.

1185 [~~6~~] (7) The office may request genetic testing under this section and shall pay for  
1186 genetic testing it requests subject to recoupment as provided in Section 62A-11-304.1.

1187 Section 22. Section **78-45e-2** is amended to read:

1188 **78-45e-2. Voluntary declaration of paternity.**

1189 (1) As used in this part:

1190 (a) "Birth mother" means the biological mother of a child.

1191 (b) "Declarant father" means a male who, with the biological mother, declares that he  
1192 is the father of a child conceived as the result of sexual intercourse with the mother.

1193 (c) "Pregnancy and confinement" means the costs of care for the biological mother  
1194 during her pregnancy and delivery.

1195 (d) "Presumptive father" means the father of a child conceived or born during a  
1196 marriage as defined in Section 30-1-17.2.

1197 (2) The mother of a child and a man who declares that he is the father of the child and  
1198 that the child was conceived as a result of sexual intercourse with the mother may sign a  
1199 declaration of paternity with the intent to establish the paternity of the child.

1200 [~~1~~] (3) (a) A voluntary declaration of paternity filed in compliance with this chapter  
1201 establishes a father-child relationship identical to the relationship established when a child is  
1202 born to persons married to each other.

1203 (b) When a voluntary declaration of paternity is filed, the liabilities of the father  
1204 include, but are not limited to, the reasonable expense of the mother's pregnancy and  
1205 confinement and for the education, necessary support, and any funeral expenses for the child.

1206 (c) When a father voluntarily declares paternity, his liability for past amounts due is  
1207 limited to a period of four years immediately preceding the date that the voluntary declaration  
1208 of paternity was filed.

1209 ~~[(2)]~~ (4) When a voluntary declaration of paternity is filed it shall be recognized as a  
1210 basis for a child support order without any further requirement or proceeding regarding the  
1211 establishment of paternity.

1212 ~~[(3)]~~ (5) The voluntary declaration of paternity may be completed and signed any time  
1213 after the birth of the child. A voluntary declaration of paternity may not be executed or filed  
1214 after consent to or relinquishment for adoption has been signed.

1215 ~~[(4)]~~ (6) The voluntary declaration of paternity shall become an amendment to the  
1216 original birth certificate. The original certificate and the declaration shall be marked so as to be  
1217 distinguishable. The declaration may be included as part of subsequently issued certified  
1218 copies of the birth certificate. Alternatively, electronically issued copies of a certificate may  
1219 reflect the amended information and the date of amendment only.

1220 ~~[(5)]~~ (7) The voluntary declaration of paternity shall be in the form prescribed by the  
1221 state registrar of vital statistics and shall be accompanied with an explanation of the  
1222 alternatives to, the legal consequences of, and the rights and responsibilities that arise from  
1223 signing the declaration.

1224 ~~[(6)]~~ (8) The social security number of any person who is subject to a voluntary  
1225 declaration of paternity shall be placed in the records relating to the matter.

1226 Section 23. Section **78-45e-3** is amended to read:

1227 **78-45e-3. Requirements for filing.**

1228 (1) A voluntary declaration of paternity may not be filed with the state registrar unless  
1229 the declaration:

1230 (a) states whether there has been genetic testing, and, if yes, that the declarant father's  
1231 declaration of paternity is consistent with the results of the testing;

1232 ~~[(1)]~~ (b) is signed by the birth mother and ~~[biological father, and by the legal guardian~~  
1233 ~~or a parent of a biological father who is under 18 years of age,] declarant father in the presence~~  
1234 of two witnesses who are not related ~~[by blood or marriage];~~ and

1235 ~~[(2)]~~ (c) the mother and ~~[alleged]~~ declarant father have been given notice, orally and in  
1236 writing, of the alternatives to, the legal consequences of, and the rights and responsibilities that

1237 arise from signing the declaration.

1238 (2) In circumstances in which the birth mother was married at the time of the  
1239 conception or birth of the child and a presumptive father exists, a voluntary declaration may not  
1240 be finalized without the signature of the presumptive father.

1241 (3) If either the birth mother or the declarant father is a minor, the voluntary  
1242 declaration must also be signed by the minor's parent.

1243 Section 24. Section **78-45e-4** is amended to read:

1244 **78-45e-4. Rescission of the declaration.**

1245 (1) A signed voluntary declaration of paternity is a legal finding of paternity, subject to  
1246 the right of any signatory to rescind the acknowledgment within the earlier of:

1247 (a) 60 days of signing; or

1248 (b) the date of an administrative or judicial proceeding relating to the child, including a  
1249 proceeding to establish a support order, in which the signatory is a party.

1250 (2) (a) Within the 60-day period, a voluntary declaration of paternity may be rescinded  
1251 by filing a voluntary rescission document with the Office of Vital Records.

1252 [~~(2)~~-(a)] (b) After the period referred to in Subsection (1), a signed voluntary  
1253 declaration of paternity may be challenged in court only on the grounds of fraud, duress, or  
1254 material mistake of fact, with the burden of proof on the challenger.

1255 [~~(b)~~] (c) The legal responsibilities, including child support, of any signatory arising  
1256 from the declaration may not be suspended during a challenge under Subsection (2)[~~(a)~~](b),  
1257 except for good cause shown.

1258 (3) In determining whether to rescind the declaration the court has the same authority  
1259 and obligation with regard to genetic testing as is provided in Section 78-45a-7.

1260 (4) A child support order based on the voluntary declaration of paternity remains in  
1261 effect during the pendency of any proceeding under this section, and until a final order of the  
1262 court rescinding the voluntary declaration.

1263 (5) If the declaration is rescinded, the declarant father may not recover any child  
1264 support he provided for the child before entry of the order of rescission.

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**Legislative Review Note**

**as of 1-22-03 4:49 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number SB0132**

**Child Support and Paternity Amendments**

*13-Feb-03*

*12:19 PM*

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**AMENDED NOTE**

**State Impact**

It is estimated that provisions of this bill can be implemented with existing resources.

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**Individual and Business Impact**

Declarant (biological) fathers may be required to bear some or all costs of child support for their biological children as determined by the courts.

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**Office of the Legislative Fiscal Analyst**