

Representative Wayne A. Harper proposes the following substitute bill:

CHILD SUPPORT FOR CHILDREN IN STATE

CUSTODY

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill amends provisions of the Utah Human Services Code relating to the collection of child support for a child who is in state custody.

Highlighted Provisions:

This bill:

- ▶ prohibits the Office of Recovery Services, within the Department of Human Services, from providing child support services to the Division of Child and Family Services (DCFS) when the child is in the custody of DCFS and is living in the home of a custodial parent of the child for more than seven consecutive days, regardless of whether the child is living in the home on a trial basis;
- ▶ provides that DCFS is not entitled to child support for a calendar month for which child support services may not be provided under the preceding paragraph; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **7-1-1006**, as last amended by Laws of Utah 2009, Chapter 381

29 **62A-11-104**, as last amended by Laws of Utah 2008, Chapter 3

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

32 Section 1. Section **7-1-1006** is amended to read:

33 **7-1-1006. Inapplicable to certain official investigations.**

34 (1) Sections 7-1-1002 and 7-1-1003 do not apply if an examination of a record is a part
35 of an official investigation by:

36 (a) local police;

37 (b) a sheriff;

38 (c) a peace officer;

39 (d) a city attorney;

40 (e) a county attorney;

41 (f) a district attorney;

42 (g) the attorney general;

43 (h) the Department of Public Safety;

44 (i) the Office of Recovery Services of the Department of Human Services;

45 (j) the Insurance Department;

46 (k) the Department of Commerce;

47 (l) the Benefit Payment Control Unit or the Payment Error Prevention Unit of the
48 Department of Workforce Services;

49 (m) the state auditor; or

50 (n) the State Tax Commission.

51 (2) Except for the Office of Recovery Services, if a governmental entity listed in
52 Subsection (1) seeks a record, the entity shall obtain the record as follows:

53 (a) if the record is a nonprotected record, by request in writing that:

54 (i) certifies that an official investigation is being conducted; and

55 (ii) is signed by a representative of the governmental entity that is conducting the
56 official investigation; or

57 (b) if the record is a protected record, by obtaining:
 58 (i) a subpoena authorized by statute;
 59 (ii) other legal process:
 60 (A) ordered by a court of competent jurisdiction; and
 61 (B) served upon the financial institution; or
 62 (iii) written permission from all account holders of the account referenced in the record
 63 to be examined.

64 (3) If the Office of Recovery Services seeks a record, the Office of Recovery Services
 65 shall obtain the record pursuant to:

- 66 (a) Subsection 62A-11-104~~[(7)]~~(1)(g);
 - 67 (b) Section 62A-11-304.1;
 - 68 (c) Section 62A-11-304.5; or
 - 69 (d) Title IV, Part D of the Social Security Act as codified in 42 U.S.C. 651 et seq.
- 70 (4) A financial institution may not give notice to an account holder or person named or
 71 referenced within the record disclosed pursuant to Subsection (2)(a).

72 (5) In accordance with Section 7-1-1004, the governmental entity conducting the
 73 official investigation that obtains a record from a financial institution under this section shall
 74 reimburse the financial institution for costs reasonably and directly incurred by the financial
 75 institution.

76 Section 2. Section **62A-11-104** is amended to read:

77 **62A-11-104. Duties of office.**

- 78 (1) The office has the following duties:
- 79 ~~[(1)]~~ (a) except as provided in Subsection (2), to provide child support services if:
- 80 ~~[(a)]~~ (i) the office has received an application for child support services;
 - 81 ~~[(b)]~~ (ii) the state has provided public assistance; or
 - 82 ~~[(c)]~~ (iii) a child lives out of the home in the protective custody, temporary custody, or
 83 custody or care of the state;
- 84 ~~[(2)]~~ (b) to carry out the obligations of the department contained in this chapter and in
 85 Title 78B, Chapters 12, Utah Child Support Act, Chapter 15, Utah Uniform Parentage Act, and
 86 Chapter 14, Uniform Interstate Family Support Act, for the purpose of collecting child support;
- 87 ~~[(3)]~~ (c) to collect money due the department which could act to offset expenditures by

88 the state;

89 ~~[(4)]~~ (d) to cooperate with the federal government in programs designed to recover
90 health and social service funds;

91 ~~[(5)]~~ (e) to collect civil or criminal assessments, fines, fees, amounts awarded as
92 restitution, and reimbursable expenses owed to the state or any of its political subdivisions, if
93 the office has contracted to provide collection services;

94 ~~[(6)]~~ (f) to implement income withholding for collection of child support in accordance
95 with Part 4, Income Withholding in IV-D Cases, of this chapter;

96 ~~[(7)]~~ (g) to enter into agreements with financial institutions doing business in the state
97 to develop and operate, in coordination with such financial institutions, a data match system in
98 the manner provided for in Section 62A-11-304.5;

99 ~~[(8)]~~ (h) to establish and maintain the state case registry in the manner required by the
100 Social Security Act, 42 U.S.C. Sec. 654a, which shall include a record in each case of:

101 ~~[(a)]~~ (i) the amount of monthly or other periodic support owed under the order, and
102 other amounts, including arrearages, interest, late payment penalties, or fees, due or overdue
103 under the order;

104 ~~[(b)]~~ (ii) any amount described in Subsection ~~[(8)(a)]~~ (1)(h)(i) that has been collected;

105 ~~[(c)]~~ (iii) the distribution of collected amounts;

106 ~~[(d)]~~ (iv) the birth date of any child for whom the order requires the provision of
107 support; and

108 ~~[(e)]~~ (v) the amount of any lien imposed with respect to the order pursuant to this part;

109 ~~[(9)]~~ (i) to contract with the Department of Workforce Services to establish and
110 maintain the new hire registry created under Section 35A-7-103;

111 ~~[(10)]~~ (j) to determine whether an individual who has applied for or is receiving cash
112 assistance or Medicaid is cooperating in good faith with the office as required by Section
113 62A-11-307.2;

114 ~~[(11)]~~ (k) to finance any costs incurred from collections, fees, General Fund
115 appropriation, contracts, and federal financial participation; and

116 ~~[(12)]~~ (l) to provide notice to a noncustodial parent in accordance with Section
117 62A-11-304.4 of the opportunity to contest the accuracy of allegations by a custodial parent of
118 nonpayment of past-due child support, prior to taking action against a noncustodial parent to

119 collect the alleged past-due support.

120 (2) The office may not provide child support services to the Division of Child and
121 Family Services for a calendar month when the child to whom the child support services relate
122 is:

123 (a) in the custody of the Division of Child and Family Services; and

124 (b) lives in the home of a custodial parent of the child for more than seven consecutive
125 days, regardless of whether:

126 (i) the greater than seven consecutive day period starts during one month and ends in
127 the next month; and

128 (ii) the child is living in the home on a trial basis.

129 (3) The Division of Child and Family Services is not entitled to child support, for a
130 child to whom the child support relates, for a calendar month when child support services may
131 not be provided under Subsection (2).