

**Effective 9/1/2024**

## **Part 1 General Provisions**

**Effective 9/1/2024**

### **81-6-101 Definitions for chapter.**

As used in this chapter:

- (1) "Administrative agency" means the Office of Recovery Services or the Department of Health and Human Services.
- (2) "Administrative order" means the same as that term is defined in Section 26B-9-201.
- (3) "Alimony" means the same as that term is defined in Section 81-4-101.
- (4) "Base child support award" means the award that may be ordered and is calculated using the child support guidelines before additions for medical expenses and work-related child care costs.
- (5) "Base combined child support obligation" means the presumed amount of child support that the parents should provide for their child as described in Subsection 81-6-204(1).
- (6) "Base combined child support obligation table" means the appropriate table described in Sections 81-6-302 and 81-6-304.
- (7) "Child" means:
  - (a) a son or daughter who is under 18 years old and who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;
  - (b) a son or daughter who is 18 years old or older while enrolled in high school during the normal and expected year of graduation and not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States; or
  - (c) a son or daughter of any age who is incapacitated from earning a living and, if able to provide some financial resources to the family, is not able to support self by own means.
- (8)
  - (a) "Child support" means a base child support award, or a monthly financial award for uninsured medical expenses, ordered by a tribunal for the support of a child.
  - (b) "Child support" includes current periodic payments, arrearages that accrue under an order for current periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and child care costs.
- (9) "Child support guidelines" means the calculation and application of child support as described in Part 2, Calculation and Adjustment of Child Support.
- (10) "Child support order" means a judgment, decree, or order issued by a tribunal whether temporary, final, or subject to modification, that:
  - (a) establishes or modifies child support;
  - (b) reduces child support arrearages to judgment; or
  - (c) establishes child support or registers a child support order under Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act.
- (11) "Child support tables" means the tables described in Part 3, Child Support Tables.
- (12) "Child support services" means the same as that term is defined in Section 26B-9-101.
- (13) "Gross income" means the amount of income calculated for a parent as described in Section 81-6-203.
- (14) "Health care coverage" means coverage under which medical services are provided to a child through:
  - (a) fee for service;

- (b) a health maintenance organization;
  - (c) a preferred provider organization;
  - (d) any other type of private health insurance; or
  - (e) public health care coverage.
- (15)
- (a) "Income" means earnings, compensation, or other payment due to an individual, regardless of source, whether denominated as wages, salary, commission, bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive pay.
  - (b) "Income" includes:
    - (i) all gain derived from capital assets, labor, or both, including profit gained through sale or conversion of capital assets;
    - (ii) interest and dividends;
    - (iii) periodic payments made under pension or retirement programs or insurance policies of any type;
    - (iv) unemployment compensation benefits;
    - (v) workers' compensation benefits; and
    - (vi) disability benefits.
- (16) "Joint physical custody" means the same as that term is defined in Section 81-9-101.
- (17) "Low income table" means the appropriate table under Section 81-6-303 or 81-6-305.
- (18) "Medical expenses" means health and dental expenses and related insurance costs.
- (19) "Minor child" means a child who is younger than 18 years old.
- (20) "Obligee" means an individual, this state, another state, or another comparable jurisdiction to whom child support is owed or who is entitled to reimbursement of child support or public assistance.
- (21) "Obligor" means a person owing a duty of support.
- (22) "Office" means the Office of Recovery Services within the Department of Health and Human Services.
- (23) "Pregnancy expenses" means an amount equal to:
- (a) the sum of a pregnant mother's:
    - (i) health insurance premiums while pregnant that are not paid by an employer or government program; and
    - (ii) medical costs related to the pregnancy, incurred after the date of conception and before the pregnancy ends; and
  - (b) minus any portion of the amount described in Subsection (23)(a) that a court determines is equitable based on the totality of the circumstances, not including any amount paid by the mother or father of the child.
- (24) "Split custody" means that each parent has physical custody of at least one of the children.
- (25) "State" means a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American tribe, or other comparable domestic or foreign jurisdiction.
- (26) "Support" means past-due, present, and future obligations to provide for the financial support, maintenance, or medical expenses of a child.
- (27) "Support order" means:
- (a) a child support order; or
  - (b) a judgment, decree, or order by a tribunal, whether temporary, final, or subject to modification, for alimony.
- (28) "Temporary" means a period of time that is projected to be less than 12 months in duration.

- (29) "Third party" means an agency or a person other than a parent or a child who provides care, maintenance, and support to a child.
- (30) "Tribunal" means the district court, the Department of Health and Human Services, Office of Recovery Services, or court or administrative agency of a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American tribe, or other comparable domestic or foreign jurisdiction.
- (31) "Work-related child care expenses" means reasonable child care costs for up to a full-time work week or training schedule as necessitated by the employment or training of a parent.
- (32) "Worksheet" means a form used to aid in calculating the base child support award.

Renumbered and Amended by Chapter 366, 2024 General Session

**Effective 9/1/2024**

**81-6-102 Application of chapter.**

This chapter applies to any judicial or administrative order establishing or modifying an award of child support entered on or after July 1, 1989.

Enacted by Chapter 366, 2024 General Session

**Effective 9/1/2024**

**81-6-103 Jurisdiction over a child support proceeding -- Appeals.**

- (1) A court has jurisdiction over a proceeding brought under this chapter in accordance with Title 78A, Judiciary and Judicial Administration.
- (2) An appeal may be taken from an order or judgment under this part as in other civil actions.

Renumbered and Amended by Chapter 366, 2024 General Session

**Effective 9/1/2024**

**81-6-104 Duty of parents to provide support for a child -- Support follows the child.**

- (1)
  - (a) Every child is presumed to be in need of the support of the child's parents.
  - (b) Every parent shall support their child.
  - (c) Nothing in this chapter relieves a parent of the primary obligation of support for the parent's child.
- (2) Except as limited in a court order under Section 81-6-208:
  - (a) the expenses incurred on behalf of a minor child for reasonable and necessary medical and dental expenses and other necessities are chargeable upon the property of both parents, regardless of the marital status of the parents; and
  - (b) a creditor may sue a parent for the expenses described in Subsection (2)(a) incurred on behalf of a minor child.
- (3)
  - (a) A parent whose minor child has become a ward of this or any other state is not relieved of the primary obligation to support that child until the minor child is 18 years old or is legally married, regardless of any agreements or legal defenses that exist between the parents or other care providers.
  - (b) Any state that provides support for a child shall have the right to reimbursement.
  - (c) A third party has a right to recover support from a parent.
- (4) An obligation ordered for child support and medical expenses:

- (a) are for the use and benefit of the child; and
  - (b) shall follow the child in a case in which a parent, or another person, is awarded sole physical custody of the child as described in Subsection 81-6-205(8).
- (5) The rights created in this chapter are in addition to and not in substitution to any other rights.

Renumbered and Amended by Chapter 366, 2024 General Session

***Effective 9/1/2024***

**81-6-105 Duty of biological father to share pregnancy expenses.**

- (1) Except as otherwise provided in this section, a biological father of a child has a duty to pay 50% of the mother's pregnancy expenses.
- (2)
- (a) If paternity is disputed, a biological father owes no duty under this section until the biological father's paternity is established.
  - (b) Once paternity is established, the biological father is subject to Subsection (1).
- (3)
- (a) Any portion of a mother's pregnancy expenses paid by the mother or the biological father reduces that parent's 50% share under Subsection (1), not the total amount of pregnancy expenses.
  - (b) Subsection (3)(a) applies regardless of when the mother or biological father pays the pregnancy expense.
- (4) If a mother receives an abortion, as defined in Section 76-7-301, without the biological father's consent, the biological father owes no duty under this section, unless:
- (a) the abortion is necessary to avert the death of the mother; or
  - (b) the mother was pregnant as a result of:
    - (i) rape, as described in Section 76-5-402;
    - (ii) rape of a child, as described in Section 76-5-402.1; or
    - (iii) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102.
- (5) Subsection (1) does not apply if a court apportions pregnancy expenses in a divorce decree under Section 81-4-406.
- (6)
- (a) A person who seeks payment under this section for pregnancy expenses shall provide documentation of payments, medical expenses, and insurance premiums to the court.
  - (b) The court shall order the payment of the expenses after a review of the documentation described in Subsection (6)(a).
- (7) Nothing in this section requires a person to separately bill a biological father for pregnancy expenses.

Renumbered and Amended by Chapter 366, 2024 General Session

***Effective 9/1/2024***

**81-6-106 Duty of obligor -- Enforcement of right of support.**

- (1)
- (a) An obligor who is present in, or a resident of, this state has the duty to provide support to the child regardless of the presence or residence of the obligee.
  - (b) The obligee may enforce the obligee's right of support against the obligor.
- (2)
- (a) The office may proceed pursuant to this part or any other applicable statute on behalf of:

- (i) the Department of Health and Human Services;
  - (ii) any other department or agency of this state that provides public assistance, as defined by Section 26B-9-101, to enforce the right to recover public assistance; or
  - (iii) the obligee, to enforce the obligee's right of support against the obligor.
- (b) Whenever any court action is commenced by the office to enforce payment of the obligor's support obligation, the attorney general or the county attorney of the county of residence of the obligee shall represent the office.
- (c) The attorney general or the county attorney does not represent or have an attorney-client relationship with the obligee or the obligor in carrying out the duties under this chapter.
- (3)
- (a) A person may not commence an action, file a pleading, or submit a written stipulation to the court, without complying with Subsection (3)(b), if the purpose or effect of the action, pleading, or stipulation is to:
    - (i) establish paternity;
    - (ii) establish or modify a support obligation;
    - (iii) change the court-ordered manner of payment of support;
    - (iv) recover support due or owing; or
    - (v) appeal issues regarding child support laws.
  - (b)
    - (i) When taking an action described in Subsection (3)(a), a person must file an affidavit with the court at the time the action is commenced, the pleading is filed, or the stipulation is submitted stating whether child support services have been or are being provided under Part IV of the Social Security Act, 42 U.S.C., Section 601 et seq., on behalf of a child who is a subject of the action, pleading, or stipulation.
    - (ii) If child support services have been or are being provided, under Part IV of the Social Security Act, 42 U.S.C., Section 601 et seq., the person shall mail a copy of the affidavit and a copy of the pleading or stipulation to the child and family support division of the Office of the Attorney General.
    - (iii)
      - (A) If notice is not given in accordance with this Subsection (3), the office is not bound by any decision, judgment, agreement, or compromise rendered in the action.
      - (B) For purposes of appeals, service must be made on the Office of the Director for the Office of Recovery Services.
  - (c) If child support services have been or are being provided, that person shall join the office as a party to the action, or mail or deliver a written request to the child and family support division of the Office of the Attorney General, asking the office to join as a party to the action.
  - (d) A copy of the request described in Subsection (3)(c), along with proof of service, shall be filed with the court.
  - (e) The office shall be represented as provided in Subsection (2)(b).

Renumbered and Amended by Chapter 366, 2024 General Session

***Effective 9/1/2024***

**81-6-107 Procedure for child support proceeding -- Documentation.**

- (1) In any matter in which child support is ordered, the moving party shall submit:
- (a) a completed worksheet;
  - (b) the financial verification required by Section 81-6-203;

- (c) a written statement indicating whether or not the amount of child support requested is consistent with the child support guidelines; and
  - (d) the information required under Subsection (3).
- (2)
- (a) If the documentation of income required under Subsection (1) is not available, the moving party may submit a verified representation of the other party's income based on the best evidence available.
  - (b) The moving party shall provide the evidence described in Subsection (2)(a) in affidavit form.
  - (c) The moving party may only offer the evidence described in Subsection (2)(a) after a copy is provided to the other party in accordance with Utah Rules of Civil Procedure or Title 63G, Chapter 4, Administrative Procedures Act, in an administrative proceeding.
- (3)
- (a) Upon the entry of an order in a proceeding to establish paternity or to establish, modify, or enforce a child support order, each party shall:
    - (i) file identifying information; and
    - (ii) update that information as changes occur with the court that conducted the proceeding.
  - (b) The required identifying information shall include the person's social security number, driver's license number, residential and mailing addresses, telephone numbers, the name, address and telephone number of employers, and any other data required by the United States Secretary of Health and Human Services.
  - (c) An attorney representing the office in child support services cases is not required to file the identifying information required by Subsection (3)(b).

Renumbered and Amended by Chapter 366, 2024 General Session

***Effective 9/1/2024***

**81-6-108 Waiver and estoppel.**

- (1) Waiver and estoppel shall apply only to the obligee when there is no order already established by a tribunal if the obligee freely and voluntarily waives support specifically and in writing.
- (2) Waiver and estoppel may not be applied against any third party or public entity that may provide support for the child.
- (3) An obligor, or alleged biological father in a paternity action, may not rely on statements made by the obligee concerning child support unless the statements are reduced to writing and signed by both parties.

Renumbered and Amended by Chapter 366, 2024 General Session

***Effective 9/1/2024***

**81-6-109 Spousal privilege -- Competency of spouses.**

- (1) A law attaching a privilege against the disclosure of communications between spouses is are inapplicable under this chapter.
- (2) Spouses are competent witnesses to testify to any relevant matter, including marriage and parentage.

Renumbered and Amended by Chapter 366, 2024 General Session

***Effective 9/1/2024***

**81-6-110 County attorney to assist obligee.**

- (1) The county attorney's office shall provide assistance to an obligee desiring to proceed under this part in the following manner:
  - (a) provide forms, approved by the Judicial Council, for an order of wage assignment if the obligee is not represented by legal counsel;
  - (b) inform the obligee of the right to file indigently if the obligee is unable to bear the expenses of the action and assist the obligee with such filing;
  - (c) advise the obligee of the available methods for service of process; and
  - (d) assist the obligee in expeditiously scheduling a hearing before the court.
- (2) The county attorney's office may charge a fee not to exceed \$25 for providing assistance to an obligee under Subsection (1).

Renumbered and Amended by Chapter 366, 2024 General Session