

CHILD SUPPORT FOR CHILDREN IN STATE

CUSTODY

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Eli H. Anderson

AN ACT RELATING TO HUMAN SERVICES; DELAYING THE ACCRUAL OF CHILD SUPPORT FOR A CHILD IN STATE CUSTODY; REQUIRING THE JUVENILE COURT TO INFORM PARENTS OF CHILD SUPPORT; LIMITING THE AMOUNT OF ARREARS THAT MAY BE INITIALLY ASSESSED IF PARENTS COOPERATE IN ESTABLISHING CHILD SUPPORT; ~~§ [AND]~~ § MAKING TECHNICAL AND CONFORMING AMENDMENTS

§ ; **AND PROVIDING A COORDINATION CLAUSE.** § .

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

62A-4a-114, as last amended by Chapter 1, Laws of Utah 1996

78-3a-906, as enacted by Chapter 1, Laws of Utah 1996

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

Section 1. Section **62A-4a-114** is amended to read:

62A-4a-114. Financial reimbursement by parent or legal guardian.

(1) The division shall seek reimbursement of funds it has expended on behalf of a child in the protective custody, temporary custody, or custody of the division, from the child's parents or legal guardians in accordance with ~~[a court]~~ an order for child support under Section 78-3a-906.

(2) The parent or legal guardian ~~[of a dependent child is financially responsible for services provided to the child by the division]~~ is only responsible for child support with regard to a case involving allegations of abuse or neglect against the parent or legal guardian ~~[only]~~, if those allegations are substantiated. ~~[Costs shall be assessed from the date the allegations are substantiated.]~~

~~[(3) Except as provided in Subsection (2), the division may seek reimbursement for services it has provided to any minor from his parent or legal guardian.]~~

28 ~~[(4)]~~ (3) The attorney general shall represent the division in any legal action taken to
29 enforce this section.

30 Section 2. Section **78-3a-906** is amended to read:

31 **78-3a-906. Support and expenses of minor in custody of individual or institution --**
32 **Order for payment by parent or other person authorized -- Payments to nongovernmental**
33 **agency vested with legal custody.**

34 (1) When legal custody of a minor is vested by the court in an individual, a secure youth
35 corrections facility, or any other state department, division, or agency other than his parents, the
36 court shall, in the same ~~[or any subsequent]~~ proceeding ~~[require]~~ inform the parents, a parent, or
37 any other person who may be obligated, ~~[to support the minor and to pay any other expenses of the~~
38 ~~minor, including the expense of any medical, psychiatric, or psychological examination or~~
39 ~~treatment provided under order of the court. The]~~ verbally and in writing, of the requirement of
40 paying child support in accordance with Title 78, Chapter 45, Uniform Civil Liability for Support
41 Act, and, if Subsection (2) applies, the requirement of meeting with the Office of Recovery
42 Services within 30 days to establish a child support order and the penalty in Subsection (4) for
43 failing to do so. If there is no existing child support in favor of the state for the minor, the liability
44 for support shall accrue beginning ~~[with the date the minor is removed from the home, including~~
45 ~~the time spent in detention or sheltered care]~~ on the 61st day following the proceeding.

46 (2) The court may refer the ~~[determination of that matter]~~ establishment of a child support
47 order to the Office of Recovery Services ~~[for administrative adjudication].~~ The referral shall be
48 sent to the Office of Recovery Services within three working days. Support obligation amounts
49 shall be set by the Office of Recovery Services in accordance with Title 78, Chapter 45, Uniform
50 Civil Liability for Support Act.

51 (3) (a) At the time that a child support order is established and a specific child support
52 amount is set, the order may not require the payment of support arrears that occurred more than
53 two months prior to the setting of the child support amount.

54 (b) Notwithstanding Subsection (3)(a), the court may order the liability of support to begin
55 to accrue from the date of the proceeding referenced in Subsection (1), if:

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

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

62 (c) For purposes of Subsection (3)(b)(ii), the Office of Recovery Services shall be
 63 presumed to have taken reasonable steps if the office:

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

67 (ii) § HAS HAD § h[spoke] A DOCUMENTED CONVERSATION h , whether by telephone or
 67a in person, § [-to] WITH §
 67b the parents, parent, or other obligated
 68 person regarding the requirement that a child support order be established.

69 (4) In collecting arrears, the Office of Recovery Services shall comply with Section
 70 62A-11-320 in setting a payment schedule or demanding payment in full.

71 ~~[(3)]~~ (5) Unless otherwise ordered, the parents or other person shall pay to the Office of
 72 Recovery Services for transmission to the person or agency having legal custody of the minor or
 73 to whom compensation is due. The clerk of the court or Office of Recovery Services shall have
 74 authority to receive periodic payments for the care and maintenance of the minor, such as Social
 75 Security payments or railroad retirement payments made in the name of or for the benefit of the
 76 minor.

77 ~~[(4)]~~ (6) No court order under this section against a parent or other person shall be entered,
 78 unless summons has been served within the state, a voluntary appearance is made, or a waiver of
 79 service given. The summons shall specify that a hearing with respect to the financial support of
 80 the minor will be held.

81 ~~[(5)]~~ (7) An order entered under this section against a parent or other person may be
 82 enforced by contempt proceedings and shall also have the effect of a judgment. Upon request of
 83 the court, the county attorney shall enforce orders of the court issued under this section.

84 ~~[(6) Payment for child support may be made]~~

85 (8) An existing child support order payable to a parent or other obligated person shall be
 86 assigned to the division as provided in Section 62A-1-117.

87 (9) If the court vests legal custody of a minor to a nongovernmental agency [in whom the
 88 court vests legal custody, provided that], the agency shall make periodic reports to the court
 89 concerning the care and treatment the minor is receiving and his response to such treatment. Such

90 reports shall be made at such intervals as the court may direct and shall be made with respect to
91 each minor at least every six months. The agency shall also afford an opportunity for a
92 representative of the court to visit the minor as frequently as the court considers necessary.

92a **§ Section 3. Coordination clause.**

92b **IF THIS BILL AND S.B. 49, CHILD SUPPORT AMENDMENTS, BOTH PASS, IT IS THE INTENT**
OF
92c **THE LEGISLATURE THAT THE AMENDMENTS TO SECTION 78-3a-906 IN THIS BILL SHALL**
92d **SUPERCEDE THE AMENDMENTS TO 78-3a-906 IN S.B. 49. §**

Legislative Review Note
as of 1-26-00 11:55 AM

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

Office of Legislative Research and General Counsel