

1 **CHILD SUPPORT AMENDMENTS**

2 2000 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Lyle W. Hillyard**

5 AN ACT RELATING TO HUMAN SERVICES AND THE JUDICIAL CODE; MAKING
6 AMENDMENTS TO CHILD SUPPORT STATUTES TO CONFORM WITH TITLE IV OF THE
7 SOCIAL SECURITY ACT; CLARIFYING WHEN PAYMENTS ARE DUE; CHANGING TAX
8 INTERCEPT PROVISIONS TO CONFORM WITH FEDERAL LAW; DELETES
9 "STEPPARENT" AS A DEFINED TERM AND SUBSTITUTES "THIRD PARTY" TO
10 ENCOMPASS ALL OTHER POSSIBLE PARTIES, INCLUDING THE STATE; ADDS NEW
11 DEFINITIONS; PREVENTING VOLUNTARY RELINQUISHMENT OF PARENTAL RIGHTS
12 WHEN SUPPORT IS OWED; AND MAKING TECHNICAL CORRECTIONS.

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

14 AMENDS:

15 **30-3-10.5**, as enacted by Chapter 78, Laws of Utah 1985

16 **35A-1-107**, as enacted by Chapter 174, Laws of Utah 1997

17 **35A-3-102**, as last amended by Chapters 61 and 70, Laws of Utah 1999

18 **35A-7-102**, as enacted by Chapter 232, Laws of Utah 1997

19 **59-10-529**, as last amended by Chapter 299, Laws of Utah 1998

20 **62A-11-103**, as last amended by Chapters 174 and 232, Laws of Utah 1997

21 **62A-11-104**, as last amended by Chapter 232, Laws of Utah 1997

22 **62A-11-301**, as enacted by Chapter 1, Laws of Utah 1988

23 **62A-11-303**, as last amended by Chapter 232, Laws of Utah 1997

24 **62A-11-304.2**, as last amended by Chapter 13, Laws of Utah 1998

25 **62A-11-305**, as last amended by Chapter 232, Laws of Utah 1997

26 **62A-11-312.5**, as enacted by Chapter 232, Laws of Utah 1997

27 **62A-11-401**, as last amended by Chapter 232, Laws of Utah 1997

- 28 **62A-11-406**, as last amended by Chapter 232, Laws of Utah 1997
- 29 **62A-11-506**, as enacted by Chapter 232, Laws of Utah 1997
- 30 **78-3a-414**, as renumbered and amended by Chapter 260, Laws of Utah 1994
- 31 **78-3a-906**, as enacted by Chapter 1, Laws of Utah 1996
- 32 **78-12-22**, as last amended by Chapter 79, Laws of Utah 1996
- 33 **78-22-1**, as last amended by Chapter 75, Laws of Utah 1999
- 34 **78-32-17**, as last amended by Chapter 232, Laws of Utah 1997
- 35 **78-45-2**, as last amended by Chapter 53, Laws of Utah 1998
- 36 **78-45-3**, as last amended by Chapter 175, Laws of Utah 1995
- 37 **78-45-4**, as last amended by Chapter 175, Laws of Utah 1995
- 38 **78-45-4.2**, as enacted by Chapter 131, Laws of Utah 1979
- 39 **78-45-4.3**, as enacted by Chapter 120, Laws of Utah 1983
- 40 **78-45-7.3**, as last amended by Chapter 118, Laws of Utah 1994
- 41 **78-45-7.5**, as last amended by Chapter 53, Laws of Utah 1998
- 42 **78-45-7.7**, as last amended by Chapter 53, Laws of Utah 1998
- 43 **78-45-7.10**, as last amended by Chapter 118, Laws of Utah 1994
- 44 **78-45f-101**, as renumbered and amended by Chapter 232, Laws of Utah 1997
- 45 **78-45f-605**, as renumbered and amended by Chapter 232, Laws of Utah 1997
- 46 **78-45f-606**, as renumbered and amended by Chapter 232, Laws of Utah 1997
- 47 **78-45f-701**, as renumbered and amended by Chapter 232, Laws of Utah 1997
- 48 **78-45f-802**, as renumbered and amended by Chapter 232, Laws of Utah 1997

49 ~~§ [78-51-41, as last amended by Chapter 100, Laws of Utah 1989] §~~

50 ENACTS:

50a § **62A-11-333, Utah Code Annotated 1953 §**

- 78-45-4.4**, Utah Code Annotated 1953
- 78-45-4.5**, Utah Code Annotated 1953
- 78-45f-902**, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

55 , (Renumbered from 30-3-10.6, as last amended by Chapter 232, Laws of Utah

56

57 REPEALS:

- 78-45-4.1**, as last amended by Chapter 42, Laws of Utah 1980

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

60 Section 1. Section **30-3-10.5** is amended to read:

61 **30-3-10.5. Payments of support, maintenance, and alimony.**

62 (1) [Unless the order or decree providing for support, maintenance, or alimony under this
 63 chapter or Title 30, Chapter 4, provides a different time for payment, all] All monthly payments
 64 of support, maintenance, or alimony provided for in the order or decree shall be due [one-half] on
 65 the first day of each month for purposes of Section 78-45-9.3, child support services pursuant to
 66 Title 62A, Chapter 11, Part 3, Public Support of Child, income withholding services pursuant to
 67 Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and other income withholding
 68 procedures pursuant to Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases.

69 (2) For purposes of child support services and income withholding pursuant to Title 62A,
 70 Chapter 11, Part 3 and Part 4, child support is not considered past due until the first day of the
 71 following month.

72 (3) For purposes other than those specified in Subsections (1) and (2), support shall be
 73 payable 1/2 by the 5th day of each month[;] and [the remaining one-half] 1/2 by the 20th day of
 74 that month, unless the order or decree provides for a different time for payment.

75 Section 2. Section **35A-1-107** is amended to read:

76 **35A-1-107. Contract with Office of Recovery Services.**

77 The department shall contract with the Office of Recovery Services within the Department
 78 of Human Services for collection of[:-(1)] overpayments under Title 62A, Chapter 11, Part 2,
 79 Administrative Determination of Overpayments Act[; and (2) child support assigned under Section
 80 35A-3-108].

81 Section 3. Section **35A-3-102** is amended to read:

82 **35A-3-102. Definitions.**

83 As used in this chapter:

84 (1) "Applicant" means a person who requests assistance under this chapter.

85 (2) "Average monthly number of families" means the average number of families who
 86 received cash assistance on a monthly basis during the previous federal fiscal year, starting from
 87 October 1, 1998 to September 30, 1999, and continuing each year thereafter.

88 (3) "Cash assistance" means a monthly dollar amount of cash a client is eligible to receive
 89 under Section 35A-3-302.

(4) "Child care services" means care of a child for a portion of the day that is less than 24

91
92 or legal guardian.

(5) "Date of enrollment" means the date on which the applicant was approved as eligible
94 for cash assistance.

(6) "Director" means the director of the division.
96
97 client who is eligible for but does not require extended cash assistance under Part 3, Family
Employment Program.

99
100 (9) "Education or training" means:

(a) basic remedial education;

102
103 (c) high school education;

(d) education to obtain the equivalent of a high school diploma;

105
106 (f) applied technology training;

(g) employment skills training; or

108
109 (10) "Full-time education or training" means training on a full-time basis as defined by the
educational institution attended by the parent client.

111
112 otherwise eligible for cash assistance under Part 3, Family Employment Program, because that
person does not live in a family with a related dependent child.

114 ~~(12) "Office of Recovery Services" means the state's Title IV-D child support~~
115 ~~_____]~~

116 ~~(13)]~~ ____ "Parent client" means a person who enters into an employment plan with the

117
118 [~~—~~] (13)

119 United States Department of Health and Human Services to receive funding from the United States
through the Temporary Assistance for Needy Families Block Grant.

121 ~~[(15)]~~ (14) (a) "Passenger vehicle" means a self-propelled, two-axle vehicle intended
122 primarily for operation on highways and used by an applicant or client to meet basic transportation
123 needs and has a fair market value below 40% of the applicable amount of the federal luxury
124 passenger automobile tax established in 26 U.S.C. Sec. 4001 and adjusted annually for inflation.

125 (b) "Passenger vehicle" does not include:

126 (i) a commercial vehicle, as defined in Section 41-1a-102;

127 (ii) an off-highway vehicle, as defined in Section 41-1a-102; or

128 (iii) a motor home, as defined in Section 13-14-102.

129 ~~[(16)]~~ (15) "Single minor parent" means a person under 18 years of age who is not married
130 and has a minor child in his care and custody.

131 Section 4. Section **35A-7-102** is amended to read:

132 **35A-7-102. Definitions.**

133 As used in this chapter:

134 (1) "Business day" means a day on which state offices are open for regular business.

135 (2) "Compensation" means payment owed by an employer for labor or services rendered
136 by an employee.

137 (3) "Date of hire" means the earlier of:

138 (a) the first day for which the employee is owed compensation by the employer; or

139 (b) the first day that an employee reports to work or performs labor or services for the
140 employer.

141 (4) "Date of rehire" means the earlier of:

142 (a) the first day for which the employee is owed compensation by the employer following
143 an unpaid absence of a minimum of six consecutive weeks; or

144 (b) the first day that an employee reports to work or performs labor or services for the
145 employer following an unpaid absence of a minimum of six consecutive weeks.

146 (5) "Employee" means an individual who is an employee within the meaning of Chapter
147 24 of the Internal Revenue Code of 1986 and does not include an employee of a federal or state
148 agency performing intelligence or counterintelligence functions, if the head of that agency
149 determines that reporting the employee could endanger the safety of the employee or compromise
150 an ongoing investigation or intelligence mission.

151 (6) "Employer" means any person or entity who or which is an employer as defined in

152 Section 3401(d) of the Internal Revenue Code of 1986 and includes any governmental entity and
153 any labor organization.

154 (7) "Labor organization" means any entity as defined in Section 2(5) of the National Labor
155 Relations Act, and includes any entity or hiring hall which is used by agreement between the
156 organization and an employer to carry out requirements described in Section 8(f)(3) of the National
157 Labor Relations Act.

158 [~~(8) "Office of Recovery Services" means the state's Title IV-D child support enforcement~~
159 ~~agency.~~]

160 [~~(9)~~ (8) "Registry" means the centralized new hire registry created in Section 35A-7-103.
161 Section 5. Section **59-10-529** is amended to read:

162 **59-10-529. Overpayment of tax -- Credits -- Refunds.**

163 (1) In cases where there has been an overpayment of any tax imposed by this chapter, the
164 amount of overpayment is credited as follows:

165 (a) against any income tax then due from the taxpayer;

166 (b) against:

167 (i) the amount of any judgment against the taxpayer, including one ordering the payment
168 of a fine or of restitution to a victim under Section 76-3-201, obtained through due process of law
169 by any entity of state government; or

170 (ii) any child support obligation which is [~~delinquent~~] due or past due, as determined by
171 the Office of Recovery Services in the Department of Human Services and after notice and an
172 opportunity for an adjudicative proceeding, as provided in Subsection (2); or

173 (c) as bail, to ensure the appearance of the taxpayer before the appropriate authority to
174 resolve an outstanding warrant against the taxpayer for which bail is due, if a court of competent
175 jurisdiction has not approved an alternative form of payment. This bail may be applied to any fine
176 or forfeiture which is due and related to a warrant which is outstanding on or after February 16,
177 1984, and in accordance with Subsections (3) and (4).

178 (2) (a) Subsection (1)(b)(ii) may be exercised only if the Office of Recovery Services has
179 mailed written notice to the taxpayer's last-known address or the address on file under Section
180 62A-11-304.4, stating:

181 (i) the amount of child support that is due or past due as of the date of the notice or other
182 specified date;

183 (ii) that any overpayment shall be applied to reduce the amount of due or past-due child
184 support specified in the notice; and

185 (iii) that the taxpayer may contest the amount of past-due child support specified in the
186 notice by filing a written request for an adjudicative proceeding with the office within 15 days of
187 the notice being sent.

188 ~~[(b) If an overpayment of tax is credited against a past-due child support obligation in~~
189 ~~accordance with Subsection (1)(b)(ii) in noncash assistance cases, the Office of Recovery Services~~
190 ~~shall inform the obligee parent in advance if it will first use any portion of the overpayment to~~
191 ~~satisfy unreimbursed cash assistance or foster care maintenance payments which have been~~
192 ~~provided to that family.]~~

193 ~~[(e)]~~ (b) The ~~[Department of Human]~~ Office of Recovery Services shall establish rules to
194 implement this Subsection (2), including procedures, in accordance with the other provisions of
195 this section, to ensure prompt reimbursement to the taxpayer of any amount of an overpayment of
196 taxes which was credited against a child support obligation in error, and to ensure prompt
197 distribution of properly credited funds to the obligee parent.

198 (3) Subsection (1)(c) may be exercised only if:

199 (a) a court has issued a warrant for the arrest of the taxpayer for failure to post bail, appear,
200 or otherwise satisfy the terms of a citation, summons, or court order; and

201 (b) a notice of intent to apply the overpayment as bail on the issued warrant has been
202 mailed to the person's current address on file with the commission.

203 (4) (a) The commission shall deliver the overpayment applied as bail to the court that
204 issued the warrant of arrest. The clerk of the court is authorized to endorse the check or
205 commission warrant of payment on behalf of the payees and deposit the monies in the court
206 treasury.

207 (b) The court receiving the overpayment applied as bail shall order withdrawal of the
208 warrant for arrest of the taxpayer if the case is one for which a personal appearance of the taxpayer
209 is not required and if the dollar amount of the overpayment represents the full dollar amount of
210 bail. In all other cases, the court receiving the overpayment applied as bail is not required to order
211 the withdrawal of the warrant of arrest of the taxpayer during the 40-day period, and the taxpayer
212 may be arrested on the warrant. However, the bail amount shall be reduced by the amount of tax
213 overpayment received by the court.

214 (c) If the taxpayer fails to respond to the notice described in Subsection (3), or to resolve
215 the warrant within 40 days after the mailing under that subsection, the overpayment applied as bail
216 is forfeited and notice of the forfeiture shall be mailed to the taxpayer at the current address on file
217 with the commission. The court may then issue another warrant or allow the original warrant to
218 remain in force if:

219 (i) the taxpayer has not complied with an order of the court;

220 (ii) the taxpayer has failed to appear and respond to a criminal charge for which a personal
221 appearance is required; or

222 (iii) the taxpayer has paid partial but not full bail in a case for which a personal appearance
223 is not required.

224 (5) If the alleged violations named in the warrant are later resolved in favor of the
225 taxpayer, the bail amount shall be remitted to the taxpayer.

226 (6) Any balance shall be refunded immediately to the taxpayer.

227 (7) (a) If a refund or credit is due because the amount of tax deducted and withheld from
228 wages exceeds the actual tax due, a refund or credit may not be made or allowed unless the
229 taxpayer or his legal representative files with the commission a tax return claiming the refund or
230 credit:

231 (i) within three years from the due date of the return, plus the period of any extension of
232 time for filing the return provided for in Subsection (7)(c); or

233 (ii) within two years from the date the tax was paid, whichever period is later.

234 (b) Except as provided in Subsection (7)(d), in other instances where a refund or credit of
235 tax which has not been deducted and withheld from income is due, a credit or refund may not be
236 allowed or made after three years from the time the tax was paid, unless, before the expiration of
237 the period, a claim is filed by the taxpayer or his legal representative.

238 (c) Beginning on July 1, 1998, the commission shall extend the period for a taxpayer to
239 file a claim under Subsection (7)(a)(i) if:

240 (i) the time period for filing a claim under Subsection (7)(a) has not expired; and

241 (ii) the commission and the taxpayer sign a written agreement:

242 (A) authorizing the extension; and

243 (B) providing for the length of the extension.

244 (d) Notwithstanding Subsection (7)(b), beginning on July 1, 1998, the commission shall

245 extend the period for a taxpayer to file a claim under Subsection (7)(b) if:

246 (i) the three-year period under Subsection (7)(b) has not expired; and

247 (ii) the commission and the taxpayer sign a written agreement:

248 (A) authorizing the extension; and

249 (B) providing for the length of the extension.

250 (8) The fine and bail forfeiture provisions of this section apply to all warrants and fines
251 issued in cases charging the taxpayer with a felony, a misdemeanor, or an infraction described in
252 this section which are outstanding on or after February 16, 1984.

253 (9) If the amount allowable as a credit for tax withheld from the taxpayer exceeds the tax
254 to which the credit relates, the excess is considered an overpayment.

255 (10) A claim for credit or refund of an overpayment which is attributable to the application
256 to the taxpayer of a net operating loss carryback shall be filed within three years from the time the
257 return was due for the taxable year of the loss.

258 (11) If there has been an overpayment of the tax which is required to be deducted and
259 withheld under Section 59-10-402, a refund shall be made to the employer only to the extent that
260 the amount of overpayment was not deducted and withheld by the employer.

261 (12) If there is no tax liability for a period in which an amount is paid as income tax, the
262 amount is an overpayment.

263 (13) If an income tax is assessed or collected after the expiration of the applicable period
264 of limitation, that amount is an overpayment.

265 (14) (a) If a taxpayer is required to report a change or correction in federal taxable income
266 reported on his federal income tax return, or to report a change or correction which is treated in
267 the same manner as if it were an overpayment for federal income tax purposes, or to file an
268 amended return with the commission, a claim for credit or refund of any resulting overpayment
269 of tax shall be filed by the taxpayer within two years from the date the notice of the change,
270 correction, or amended return was required to be filed with the commission.

271 (b) If the report or amended return is not filed within 90 days, interest on any resulting
272 refund or credit ceases to accrue after the 90-day period.

273 (c) The amount of the credit or refund may not exceed the amount of the reduction in tax
274 attributable to the federal change, correction, or items amended on the taxpayer's amended federal
275 income tax return.

276 (d) Except as specifically provided, this section does not affect the amount or the time
277 within which a claim for credit or refund may be filed.

278 (15) No credit or refund may be allowed or made if the overpayment is less than \$1.

279 (16) The amount of the credit or refund may not exceed the tax paid during the three years
280 immediately preceding the filing of the claim, or if no claim is filed, then during the three years
281 immediately preceding the allowance of the credit or refund.

282 (17) In the case of an overpayment of tax by the employer under the withholding
283 provisions of this chapter, a refund or credit shall be made to the employer only to the extent that
284 the amount of the overpayment was not deducted and withheld from wages under the provisions
285 of this chapter.

286 (18) If a taxpayer who is entitled to a refund under this chapter dies, the commission may
287 make payment to the duly appointed executor or administrator of the taxpayer's estate. If there is
288 no executor or administrator, payment may be made to those persons who establish entitlement to
289 inherit the property of the decedent in the proportions set out in Title 75, Utah Uniform Probate
290 Code.

291 (19) Where an overpayment relates to adjustments to net income referred to in Subsection
292 59-10-536(3)(c), credit may be allowed or a refund paid any time before the expiration of the
293 period within which a deficiency may be assessed.

294 (20) An overpayment of a tax imposed by this chapter shall accrue interest at the rate and
295 in the manner prescribed in Section 59-1-402.

296 Section 6. Section **62A-11-103** is amended to read:

297 **62A-11-103. Definitions.**

298 As used in this part:

299 (1) "Account" means a demand deposit account, checking or negotiable withdrawal order
300 account, savings account, time deposit account, or money-market mutual fund account.

301 (2) "Child support services" or "IV-D child support services" means services provided
302 pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651, et seq.

303 [~~2~~] (3) "Director" means the director of the Office of Recovery Services.

304 [~~3~~] (4) "Disposable earnings" means that part of the earnings of an individual remaining
305 after the deduction of all amounts required by law to be withheld.

306 [~~4~~] (5) "Financial institution" means:

307 (a) a depository institution as defined in Section 7-1-103 or the Federal Deposit Insurance
308 Act, 12 U.S.C. Sec. 1813(c);

309 (b) an institution-affiliated party as defined in the Federal Deposit Insurance Act, 12
310 U.S.C. Sec. 1813(u);

311 (c) any federal credit union or state credit union as defined in the Federal Credit Union
312 Act, 12 U.S.C. Sec. 1752, including an institution-affiliated party of such a credit union as
313 defined in 12 U.S.C. Sec. 1786(r);

314 (d) a broker-dealer as defined in Section 61-1-13; or

315 (e) any benefit association, insurance company, safe deposit company, money-market
316 mutual fund, or similar entity authorized to do business in the state.

317 [~~5~~] (6) "Financial record" is defined in the Right to Financial Privacy Act of 1978, 12
318 U.S.C. Sec. 3401.

319 [~~6~~] (7) "Income" means earnings, compensation, or other payment due to an individual,
320 regardless of source, whether denominated as wages, salary, commission, bonus, pay, or contract
321 payment, or denominated as advances on future wages, salary, commission, bonus, pay,
322 allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive pay.
323 "Income" includes:

324 (a) all gain derived from capital assets, labor, or both, including profit gained through sale
325 or conversion of capital assets;

326 (b) interest and dividends;

327 (c) periodic payments made under pension or retirement programs or insurance policies
328 of any type;

329 (d) unemployment compensation benefits;

330 (e) workers' compensation benefits; and

331 (f) disability benefits.

332 [~~7~~] (8) "IV-D" means Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. [~~601~~]
333 651 et seq.

334 [~~8~~] (9) "New hire registry" means the centralized new hire registry created in Section
335 35A-7-103.

336 [~~9~~] (10) "Obligee" means an individual, this state, another state, or other comparable
337 jurisdiction to whom a debt is owed or who is entitled to reimbursement of child support or public

338 assistance.

339 ~~[(10)]~~ (11) "Obligor" means a person, firm, corporation, or the estate of a decedent owing
 340 money to this state, to an individual, to another state, or other comparable jurisdiction in whose
 341 behalf this state is acting.

342 ~~[(11)]~~ (12) "Office" means the Office of Recovery Services.

343 ~~[(12)]~~ (13) "Provider" means a person or entity that receives compensation from any public
 344 assistance program for goods or services provided to a public assistance recipient.

345 ~~[(13)]~~ (14) "Public assistance" or "assistance" means:

346 (a) services or benefits provided under Title 35A, Chapter 3, Employment Support Act;

347 (b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;

348 (c) foster care maintenance payments under Part E of Title [IV-E] IV of the Social Security
 349 Act, 42 U.S.C. Sec. 670, et seq.;

350 (d) food stamps; or

351 (e) any other public funds expended for the benefit of a person in need of financial,
 352 medical, food, housing, or related assistance.

353 ~~[(14)]~~ (15) "State case registry" means the central, automated record system maintained
 354 by the office and the central, automated district court record system maintained by the
 355 Administrative Office of the Courts, that contains records which use standardized data elements,
 356 such as names, social security numbers and other uniform identification numbers, dates of birth,
 357 and case identification numbers, with respect to:

358 (a) each case in which services are being provided by the office under the state IV-D [state]
 359 child support services plan; and

360 (b) each support order established or modified in the state on or after October 1, 1998.

361 Section 7. Section **62A-11-104** is amended to read:

362 **62A-11-104. Duties of office.**

363 The office has the following duties:

364 (1) to ~~[collect]~~ provide child support ~~[from an obligor]~~ services if:

365 (a) the office has received an application for child support services; ~~[or]~~

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

367 (c) a child lives out of the home in the protective custody, temporary custody, or custody
 368 or care of the state or another party for at least 30 days;

369 (2) to carry out the obligations of the department contained in this chapter and in Title 78,
370 Chapters 45, 45a, and 45f for the purpose of collecting child support;

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

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

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

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

379 (7) to implement income withholding for collection of child support in accordance with
380 Part 4 of this chapter;

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

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

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

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

390 (c) the distribution of collected amounts;

391 (d) the birth date of any child [~~from~~] for whom the order requires the provision of support;

392 and

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

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

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

398 (12) to finance any costs incurred from collections, fees, General Fund appropriation,
399 contracts, and federal financial participation.

400 Section 8. Section **62A-11-301** is amended to read:

401 **Part 3. Child Support Services Act**

402 **62A-11-301. Title.**

403 This part ~~shall be~~ is known as the "[Public] Child Support [~~of Children~~] Services Act."

404 Section 9. Section **62A-11-303** is amended to read:

405 **62A-11-303. Definitions.**

406 As used in this part:

407 (1) "Adjudicative proceeding" means an action or proceeding of the office conducted in
408 accordance with Title 63, Chapter 46b, Administrative Procedures Act.

409 (2) "Administrative order" means an order that has been issued by the office, the
410 department, or an administrative agency of another state or other comparable jurisdiction with
411 similar authority to that of the office.

412 (3) "Assistance" or "public assistance" is defined in Section 62A-11-103.

413 (4) "Business day" means a day on which state offices are open for regular business.

414 (5) "Child" means:

415 (a) a son or daughter under the age of 18 years who is not otherwise emancipated,
416 self-supporting, married, or a member of the armed forces of the United States;

417 (b) a son or daughter over the age of 18 years, while enrolled in high school during the
418 normal and expected year of graduation and not otherwise emancipated, self-supporting, married,
419 or a member of the armed forces of the United States; or

420 (c) a son or daughter of any age who is incapacitated from earning a living and is without
421 sufficient means.

422 (6) "Child support" is defined in Section 62A-11-401.

423 (7) "Child support guidelines" or "guidelines" is defined in Section 78-45-2.

424 (8) "Child support order" or "support order" is defined in Section 62A-11-401.

425 ~~[(13)]~~ (9) "Child support services" or "IV-D child support services" is defined in Section
426 62A-11-103.

427 ~~[(9)]~~ (10) "Court order" means a judgment or order of a [~~court~~] tribunal of appropriate
428 jurisdiction of this state, another state, Native American tribe, the federal government, or any other
429 comparable jurisdiction [~~issued under Section 30-3-5, Section 78-3a-906, Title 78, Chapter 45a,~~
430 Uniform Act on Paternity, or other statute relating to support].

431 ~~[(10)]~~ (11) "Director" means the director of the Office of Recovery Services.

432 ~~[(11)]~~ (12) "Disposable earnings" is defined in Section 62A-11-103.

433 (13) "High-volume automated administrative enforcement" in interstate cases means, on
 434 the request of another state, the identification by the office, through automatic data matches with
 435 financial institutions and other entities where assets may be found, of assets owned by persons who
 436 owe child support in the requesting state, and the seizure of the assets by the office, through levy
 437 or other appropriate processes.

438 ~~[(12)]~~ (14) "Income" is defined in Section 62A-11-103.

439 ~~[(14)]~~ (15) "Notice of agency action" means the notice required to commence an
 440 adjudicative proceeding in accordance with Section 63-46b-3.

441 ~~[(15)]~~ (16) "Obligee" means an individual, this state, another state, or ~~[corporate]~~ other
 442 comparable jurisdiction to whom a duty of child support is owed, or who is entitled to
 443 reimbursement of child support or public assistance.

444 ~~[(16)]~~ (17) "Obligor" means a person, firm, corporation, or the estate of a decedent owing
 445 a duty of support to this state, to an individual, to another state, or other corporate jurisdiction in
 446 whose behalf this state is acting.

447 ~~[(17)]~~ (18) "Office" is defined in Section 62A-11-103.

448 ~~[(18)]~~ (19) "Parent" means a natural parent~~;~~ or an adoptive parent~~;~~ or stepparent of a
 449 dependent child.

450 ~~[(19)]~~ (20) "Person" includes an individual, firm, corporation, association, political
 451 subdivision, department, or office.

452 ~~[(20)]~~ (21) "Presiding officer" means a presiding officer described in Section 63-46b-2.

453 ~~[(21)]~~ "Stepparent" means a person ceremonially married to a child's natural or adoptive
 454 custodial parent who is not the child's natural or adoptive parent or one living with the natural or
 455 adoptive custodial parent as a common law spouse, whose common law marriage was entered into
 456 in a state which recognizes the validity of common law marriage.]

457 (22) "Support" includes past-due, present, and future obligations established by:

458 (a) a ~~[court or administrative order]~~ tribunal or imposed by law for the financial support,
 459 maintenance, ~~[health]~~ medical, or dental care of a dependent child; and

460 (b) a ~~[court or administrative order]~~ tribunal for the financial support of a spouse or former
 461 spouse with whom the obligor's dependent child resides if the obligor also owes a child support

462 obligation that is being enforced by the state.

463 (23) "Support debt," "past-due support," or "arrear" means the debt created by
464 nonpayment of support.

465 (24) "Tribunal" means the district court, the Department of Human Services, the Office
466 of Recovery Services, or court or administrative agency of any state, territory, possession of the
467 United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American
468 Tribe, or other comparable domestic or foreign jurisdiction.

469 Section 10. Section **62A-11-304.2** is amended to read:

470 **62A-11-304.2. Issuance or modification of administrative order -- Compliance with**
471 **court order -- Authority of office -- Stipulated agreements -- Interest -- Notification**
472 **requirements.**

473 (1) Through an adjudicative proceeding the office may issue or modify an administrative
474 order that:

475 (a) determines paternity in accordance with Section 78-45a-10;

476 (b) determines whether an obligor owes support;

477 (c) determines temporary orders of child support upon clear and convincing evidence of
478 paternity in the form of genetic test results or other evidence;

479 (d) requires an obligor to pay a specific or determinable amount of present and future
480 support;

481 (e) determines the amount of past-due support;

482 (f) orders an obligor who owes past-due support and is obligated to support a child
483 receiving public assistance to participate in appropriate work activities if the obligor is unemployed
484 and is not otherwise incapacitated;

485 (g) imposes a penalty authorized under this chapter;

486 (h) determines an issue that may be specifically contested under this chapter by a party
487 who timely files a written request for an adjudicative proceeding with the office; and

488 (i) renews an administrative judgment. [~~The office shall commence an adjudicative~~
489 ~~proceeding to renew a judgment by serving notice of agency action on the obligor before the~~
490 ~~judgment is barred by the applicable statute of limitations.]~~

491 (2) (a) An abstract of a final administrative order issued under this section or a notice of
492 judgment-lien under Section 62A-11-312.5 may be filed with the clerk of any district court.

493 (b) Upon a filing under Subsection (2)(a), the clerk of the court shall:

494 (i) docket the abstract or notice in the judgment docket of the court and note the time of
495 receipt on the abstract or notice and in the judgment docket; and

496 (ii) at the request of the office, place a copy of the abstract or notice in the file of a child
497 support action involving the same parties.

498 (3) ~~[(a)]~~ If a ~~[court]~~ judicial order has been issued, the office may not issue an order under
499 Subsection (1) that is not based on the ~~[court]~~ judicial order~~[-]~~. except:

500 (a) the office may establish a new obligation in those cases in which the juvenile court has
501 ordered the parties to meet with the office to determine the support pursuant to Section 78-3a-906;
502 or

503 (b) ~~[Notwithstanding Subsection (3)(a);]~~ the office may issue an order of current support
504 in accordance with the child support guidelines if the conditions of Subsection 78-45f-207(2)(c)
505 are met.

506 (4) The office may proceed under this section in the name of this state, another state under
507 Section 62A-11-305, any department of this state, the office, or the obligee.

508 (5) The office may accept voluntary acknowledgment of a support obligation and enter into
509 stipulated agreements providing for the issuance of an administrative order under this part.

510 (6) The office may act in the name of the obligee in endorsing and cashing any drafts,
511 checks, money orders, or other negotiable instruments received by the office for support.

512 ~~[(7) The office may assess interest not to exceed 1% per month on any unpaid support if~~
513 ~~notice of the assessment of interest has been provided to the obligor in a notice of agency action.]~~

514 ~~[(8)]~~ (7) The obligor shall, after a notice of agency action has been served on him under
515 this part, keep the office informed of:

516 (a) his current address;

517 (b) the name and address of current payors of income;

518 (c) availability of or access to health insurance coverage; and

519 (d) applicable health insurance policy information.

520 Section 11. Section **62A-11-305** is amended to read:

521 **62A-11-305. Support collection services requested by agency of another state.**

522 (1) In accordance with Title 78, Chapter 45f, Uniform Interstate Family Support Act, the
523 office may proceed to issue or modify an order under Section 62A-11-304.2 to collect under this

524 part from an obligor who is located in or is a resident of this state regardless of the presence or
525 residence of the obligee if:

526 (a) support collection services are requested by an agency of another state that is operating
527 under ~~[Title]~~ Part IV-D of the Social Security Act; or

528 (b) an individual applies for services.

529 (2) The office shall ~~[respond within five business days]~~ use high-volume automated
530 administrative enforcement, to the same extent it is used for intrastate cases, in response to a
531 request made by another state's IV-D child support agency to enforce [a] support ~~[order]~~ orders.

532 (3) A request by another state shall constitute a certification by the requesting state:

533 (a) of the amount of support under the order of payment of which is in arrears; and

534 (b) that the requesting state has complied with procedural due process requirements
535 applicable to the case.

536 (4) The office shall give automated administrative interstate enforcement requests the same
537 priority as a two-state referral received from another state to enforce a support order.

538 (5) The office shall promptly report the results of the enforcement procedures to the
539 requesting state.

540 ~~[(4)]~~ (6) As required by the Social Security Act, 42 U.S.C. Sec. 666(a)(14), the office shall
541 maintain records of:

542 (a) the number of requests for enforcement assistance received by the office under this
543 section;

544 (b) the number of cases for which the state collected support in response to those requests;
545 and

546 (c) the amount of support collected.

547 Section 12. Section **62A-11-312.5** is amended to read:

548 **62A-11-312.5. Liens by operation of law and writs of garnishment.**

549 (1) Each payment or installment of child support is, on and after the date it is due, a
550 judgment with the same attributes and effect of any judgment of a district court in accordance with
551 Section ~~[30-3-10.6]~~ 78-45-9.3 and for purposes of Section 78-22-1.

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

- 555 (i) identifies this section;
 556 (ii) specifies the amount of past-due support; and
 557 (iii) complies with the procedural requirements of Section 78-22-1.

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

561 (c) A lien under this Subsection (2) shall continue for a period of eight years from the time
 562 of docketing unless previously satisfied.

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

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

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

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

573a **§ SECTION 13. SECTION 62A-11-333 IS ENACTED TO READ:**

573b **62A-11-333. RIGHT TO JUDICIAL REVIEW.**

573c **(1)(a) WITHIN 30 DAYS OF NOTICE OF ANY ADMINISTRATIVE ACTION ON THE PART OF THE**
 573d **OFFICE TO ESTABLISH PATERNITY OR ESTABLISH, MODIFY OR ENFORCE A CHILD SUPPORT**
 573e **ORDER, THE OBLIGOR MAY FILE A PETITION FOR DE NOVO REVIEW WITH THE DISTRICT COURT.**

573f **(b) FOR PURPOSES OF SUBSECTION (1)(a), NOTICE INCLUDES:**

573g **(i) NOTICE ACTUALLY RECEIVED BY THE OBLIGOR IN ACCORDANCE WITH SECTION**
 573h **62A-11-304.4;**

573i **(ii) PARTICIPATION BY THE OBLIGOR IN THE PROCEEDINGS RELATED TO THE**
 573j **ESTABLISHMENT OF THE PATERNITY OR THE MODIFICATION OR ENFORCEMENT OF CHILD**
 573k **SUPPORT; OR**

573l **(iii) RECEIVING A PAYCHECK IN WHICH A REDUCTION HAS BEEN MADE FOR CHILD**
 573m **SUPPORT.**

573n **(2) THE PETITION SHALL NAME THE OFFICE AND ALL OTHER APPROPRIATE PARTIES AS**
 573o **RESPONDENTS AND MEET THE FORM REQUIREMENTS SPECIFIED IN SECTION 63-46b-15.**

573p **(3) A COPY OF THE PETITION SHALL BE SERVED UPON THE CHILD AND FAMILY SUPPORT**
 573q **DIVISION OF THE OFFICE OF ATTORNEY GENERAL. §**

573r (4)(a) IF THE PETITION IS REGARDING THE AMOUNT OF THE CHILD SUPPORT
OBLIGATION

573s ESTABLISHED IN ACCORDANCE WITH TITLE 78, CHAPTER 45, UNIFORM CIVIL LIABILITY FOR
 573t SUPPORT ACT, THE COURT MAY ISSUE A TEMPORARY ORDER FOR CHILD SUPPORT UNTIL A
 573u FINAL ORDER IS ISSUED.

573v (b) THE PETITIONER MAY FILE AN AFFIDAVIT STATING THE AMOUNT OF CHILD SUPPORT
 573w REASONABLY BELIEVED TO BE DUE AND THE COURT MAY ISSUE A TEMPORARY ORDER FOR
 573x THAT AMOUNT. THE TEMPORARY ORDER SHALL BE VALID FOR 60 DAYS, UNLESS EXTENDED BY
 573y THE COURT WHILE THE ACTION IS BEING PURSUED.

573z (c) IF THE COURT UPHOLDS THE AMOUNT OF SUPPORT ESTABLISHED IN SUBSECTION
 573aa (4)(a), THE PETITIONER SHALL BE ORDERED TO MAKE UP THE DIFFERENCE BETWEEN THE
 573ab AMOUNT ORIGINALLY ORDERED IN SUBSECTION (4)(a) AND THE AMOUNT TEMPORARILY
 573ac ORDERED UNDER SUBSECTION (4)(b).

573ad (d) THIS SUBSECTION (4) DOES NOT APPLY TO AN ACTION FOR THE COURT-ORDERED
 573ae MODIFICATION OF A JUDICIAL CHILD SUPPORT ORDER.

573af (5) THE COURT MAY, ON ITS OWN INITIATIVE AND BASED ON THE EVIDENCE BEFORE IT,
 573ag DETERMINE WHETHER THE PETITIONER VIOLATED U.R. CIV. P. RULE 11 BY FILING THE ACTION.
IF

573ah THE COURT DETERMINES THAT U.R.CIV.P. RULE 11 WAS VIOLATED, IT SHALL, AT A MINIMUM,
 573ai AWARD TO THE OFFICE ATTORNEYS' FEES AND COSTS FOR THE ACTION.

573aj (6) NOTHING IN THIS SECTION PRECLUDES THE OBLIGOR FROM SEEKING
ADMINISTRATIVE
 573ak REMEDIES AS PROVIDED IN THIS CHAPTER. §

574 Section 13. Section **62A-11-401** is amended to read:

575 **62A-11-401. Definitions.**

576 As used in this part and in Part 5:

577 (1) "Business day" means a day on which state offices are open for regular business.

578 (2) "Child" is defined in Section 62A-11-303.

579 (3) "Child support" means a [~~financial obligation ordered by a court or administrative~~

580 ~~body]~~ base child support award as defined in Subsection 78-45-2(4), or a financial award for

581 uninsured monthly medical expenses, ordered by a tribunal for the support of a child, including

582 current periodic payments [and all arrearages. ~~Child support includes court ordered obligations],~~

583 all arrearages which accrue under an order for current periodic payments, and sum certain

584 judgments awarded for arrearages, medical expenses, and child care costs . ~~Child support includes~~

585 obligations ordered by a tribunal for the support of a spouse or former spouse with whom the child

586 resides if the spousal support is collected with the child support.

587 (4) "Child support order" or "support order" means a judgment, decree, or order [~~of a court~~
588 ~~or administrative body whether interlocutory or final, whether or not prospectively or retroactively~~
589 ~~modifiable, whether incidental to a proceeding for divorce, judicial or legal separation, separate~~
590 ~~maintenance, paternity, guardianship, civil protection, or otherwise, which:], whether temporary,
591 final, or subject to modification, issued by a tribunal for child support and related costs and fees,
592 interest and penalties, income withholding, attorneys' fees, and other relief.~~

593 [~~(a) establishes or modifies child support;~~]

594 [~~(b) reduces child support arrearages to judgment; or]~~

595 [~~(c) establishes child support or confirms a child support order under Title 78, Chapter 45f,~~
596 ~~Uniform Interstate Family Support Act.]~~

597 [~~(8) "IV-D~~] (5) "Child support services" is defined in Section 62A-11-103.

598 [~~(5)~~] (6) "Delinquent" or "delinquency" means that child support in an amount at least
599 equal to current child support payable for one month is overdue.

600 [~~(6)~~] (7) "Immediate income withholding" means income withholding without regard to
601 whether a delinquency has occurred.

602 [~~(7)~~] (8) "Income" is defined in Section 62A-11-103.

603 (9) "Jurisdiction" means a state or political subdivision of the United States, a territory or
604 possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, an
605 Indian tribe or tribal organization, or any comparable foreign nation or political subdivision.

606 (10) "Obligee" is defined in Section 62A-11-303.

607 (11) "Obligor" is defined in Section 62A-11-303.

608 (12) "Office" is defined in Section 62A-11-103.

609 (13) "Payor" means an employer or any person who is a source of income to an obligor.

610 Section 14. Section **62A-11-406** is amended to read:

611 **62A-11-406. Notice to payor.**

612 Upon compliance with the applicable provisions of this part the office shall mail or deliver
613 to each payor at the payor's last-known address written notice stating:

614 (1) the amount of child support to be withheld from income;

615 (2) that the child support must be withheld from the obligor's income each time the obligor
616 is paid, but that the amount withheld may not exceed the maximum amount permitted under

617 Section 303 (b) of the Consumer Credit Protection Act, 15 U.S.C. Sec. 1673 (b);

618 (3) that the payor must mail or deliver the withheld income to the office within seven
619 business days of the date the amount would have been paid or credited to the employee but for this
620 section;

621 (4) that ~~[, once per month,]~~ the payor may deduct from the obligor's income an additional
622 amount which is equal to the amount payable to a garnishee under Rule 64D of the Utah Rules of
623 Civil Procedure, as the payor's fee for administrative costs, but the total amount withheld may not
624 exceed the maximum amount permitted under Section 303 (b) of the Consumer Credit Protection
625 Act, 15 U.S.C. Sec. 1673 (b);

626 (5) that the notice to withhold is binding on the payor and on any future payor until further
627 notice by the office or a court;

628 (6) (a) that if the payor fails to mail or deliver withheld income to the office within the
629 time period set in Subsection (3), the payor is liable to the office for a late fee of \$50 or 10% of
630 the withheld income, whichever is greater, for each payment that is late, per obligor; and

631 (b) that if the payor willfully fails to withhold income in accordance with the notice, the
632 payor is liable to the office for \$1,000 or the accumulated amount the payor should have withheld,
633 whichever is greater, plus interest on that amount;

634 (7) that the notice to withhold is prior to any other legal process under state law;

635 (8) that the payor must begin to withhold income no later than the first time the obligor's
636 earnings are normally paid after five working days from the date the payor receives the notice;

637 (9) that the payor must notify the office within five days after the obligor terminates
638 employment or the periodic income payment is terminated, and provide the obligor's last-known
639 address and the name and address of any new payor, if known;

640 (10) that if the payor discharges, refuses to employ, or takes disciplinary action against an
641 obligor because of the notice to withhold, the payor is liable to the obligor as provided in Section
642 62A-11-316, and to the office for the greater of \$1,000 or the amount of child support accumulated
643 to the date of discharge which the payor should have withheld, plus interest on that amount; and

644 (11) that, in addition to any other remedy provided in this section, the payor is liable for
645 costs and reasonable attorneys' fees incurred in enforcing any provision in a notice to withhold
646 mailed or delivered to the payor's last-known address.

647 Section 15. Section **62A-11-506** is amended to read:

648 **62A-11-506. Notice to payor.**

649 (1) A notice mailed or delivered to a payor under this part shall state in writing:

650 (a) the amount of child support to be withheld from income;

651 (b) that the child support must be withheld from the obligor's income each time the obligor
652 is paid, but that the amount withheld may not exceed the maximum amount permitted under
653 Section 303(b) of the Consumer Credit Protection Act, 15 U.S.C. Section 1673(b);654 (c) that the payor must mail or deliver the withheld income to the office within seven
655 business days of the date the amount would have been paid or credited to the employee but for this
656 section;657 (d) that ~~[, once per month,]~~ the payor may deduct from the obligor's income an additional
658 amount which is equal to the amount payable to a garnishee under Rule 64D of the Utah Rules of
659 Civil Procedure, as the payor's fee for administrative costs, but the total amount withheld may not
660 exceed the maximum amount permitted under Section 303(b) of the Consumer Credit Protection
661 Act, 15 U.S.C. Section 1673(b);662 (e) that the notice to withhold is binding on the payor and on any future payor until further
663 notice by the office or a court;664 (f) (i) that if the payor fails to mail or deliver withheld income to the office within the time
665 period set in Subsection (1)(c), the payor is liable to the obligee for a late fee of \$50 or 10% of the
666 withheld income, whichever is greater, for each payment that is late; and667 (ii) that if the payor willfully fails to withhold income in accordance with the notice, the
668 payor is liable to the obligee for \$1,000 or the accumulated amount the payor should have
669 withheld, whichever is greater, plus interest on that amount;

670 (g) that the notice to withhold is prior to any other legal process under state law;

671 (h) that the payor must begin to withhold income no later than the first time the obligor's
672 earnings are normally paid after five working days from the date the payor receives the notice;673 (i) that the payor must notify the office within five days after the obligor terminates
674 employment or the periodic income payment is terminated, and provide the obligor's last-known
675 address and the name and address of any new payor, if known;676 (j) that if the payor discharges, refuses to employ, or takes disciplinary action against an
677 obligor because of the notice to withhold, the payor is liable to the obligor as provided in Section
678 62A-11-316 and the obligee for the greater of \$1,000 or the amount of child support accumulated

679 to the date of discharge which the payor should have withheld plus interest on that amount; and

680 (k) that, in addition to any other remedy provided in this section, the payor is liable to the
681 obligee or obligor for costs and reasonable attorneys' fees incurred in enforcing a provision in a
682 notice to withhold mailed or delivered under Section 62A-11-502 or 62A-11-504.

683 (2) If the obligor's employment with a payor is terminated, the office shall, if known and
684 if contacted by the obligee, inform the obligee of:

685 (a) the obligor's last-known address; and

686 (b) the name and address of any new payor.

687 Section 16. Section **78-3a-414** is amended to read:

688 **78-3a-414. Voluntary relinquishment -- Irrevocable.**

689 (1) Voluntary relinquishment or consent for termination of parental rights shall be signed
690 or confirmed under oath before a judge of any court that has jurisdiction over proceedings for
691 termination of parental rights in this state or any other state, or a public officer appointed by that
692 court for the purpose of taking consents or relinquishments.

693 (2) The court or appointed officer shall certify that the person executing the consent or
694 relinquishment has read and understands the consent or relinquishment and has signed it freely and
695 voluntarily.

696 (3) A voluntary relinquishment or consent for termination of parental rights is effective
697 when it is signed and may not be revoked.

698 (4) The requirements and processes described in Sections 78-3a-402 through 78-3a-410
699 do not apply to a voluntary relinquishment or consent for termination of parental rights. The court
700 need only find that the relinquishment or termination is in the child's best interest.

700a **§ (5) THERE IS A PRESUMPTION THAT VOLUNTARY RELINQUISHMENT OR CONSENT FOR**
700b **TERMINATION OF PARENTAL RIGHTS IS NOT IN THE CHILD'S BEST INTEREST WHERE IT**
700c **APPEARS TO THE COURT THAT THE PRIMARY PURPOSE IS TO AVOID A FINANCIAL SUPPORT**
700d **OBLIGATION. THE PRESUMPTION MAY BE REBUTTED, HOWEVER, IF THE COURT FINDS THE**
700e **RELINQUISHMENT OR CONSENT TO TERMINATION OF PARENTAL RIGHTS WILL FACILITATE THE**
700f **ESTABLISHMENT OF STABILITY AND PERMANENCY FOR THE CHILD.**

701 ~~[(5)]~~ **(6)** § Upon granting a voluntary relinquishment the court may make orders relating to the
702 child's care and welfare that the court ~~[deems]~~ considers to be in the child's best interest.

703 ~~§ [(6) Unless the court makes a specific finding, voluntary relinquishment or termination of~~
704 ~~parental rights may not be accepted by the court if:~~

705 ~~— (a) the parent who is relinquishing rights has a financial responsibility to support a child~~
706 ~~and there is no person to take the relinquishing parent's place who will be responsible for the~~
707 ~~financial support of the child; and~~ §

708 § ~~—— (b) there is no substantiated abuse, neglect, or dependency on the part of the parent who~~
709 ~~is seeking relinquishment.]~~ §

710 Section 17. Section **78-3a-906** is amended to read:

711 **78-3a-906. Support and expenses of minor in custody of individual or institution --**
712 **Order for payment by parent or other person authorized -- Payments to nongovernmental**
713 **agency vested with legal custody.**

714 (1) When legal custody of a minor is vested by the court in an individual, a secure youth
715 corrections facility, or any other state department, division, or agency other than his parents, the
716 court shall in the same or any subsequent proceeding require the parents, a parent, or any other
717 person who may be obligated, to support the minor and to pay any other expenses of the minor,
718 including the expense of any medical, psychiatric, or psychological examination or treatment
719 provided under order of the court. The liability for support shall accrue beginning with the date
720 the minor is removed from the home, including the time spent in detention or sheltered care.

721 (2) The court may refer the determination of that matter to the Office of Recovery Services
722 for administrative [~~adjudication~~] determination. Support obligation amounts shall be set by the
723 Office of Recovery Services in accordance with Title 78, Chapter 45, Uniform Civil Liability for
724 Support Act.

725 (3) Unless otherwise ordered, the parents or other person shall pay to the Office of
726 Recovery Services for transmission to the person or agency having legal custody of the minor or
727 to whom compensation is due. The clerk of the court or Office of Recovery Services shall have
728 authority to receive periodic payments for the care and maintenance of the minor, such as Social
729 Security payments or railroad retirement payments made in the name of or for the benefit of the
730 minor.

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

735 (5) An order entered under this section against a parent or other person may be enforced
736 by contempt proceedings and shall also have the effect of a judgment. Upon request of the court,
737 the county attorney shall enforce orders of the court issued under this section.

738 (6) Payment for child support may be made to a nongovernmental agency in whom the
739 court vests legal custody, provided that the agency shall make periodic reports to the court
740 concerning the care and treatment the minor is receiving and his response to such treatment. Such

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

744 Section 18. Section **78-12-22** is amended to read:

745 **78-12-22. Statute of Limitations -- Eight years.**

746 An action may be brought within eight years[:(+)] upon a judgment or decree of any court
747 of the United States, or of any state or territory within the United States[;].

748 [~~(2) to enforce any liability due or to become due, for failure to provide support or~~
749 ~~maintenance for dependent children.~~]

750 Section 19. Section **78-22-1** is amended to read:

751 **78-22-1. Duration of judgment -- Judgment as lien upon real property -- Abstract**
752 **of judgment -- Small claims judgment not lien -- Appeal of judgment -- Child support orders.**

753 (1) [~~Judgments~~] Except as provided in Subsection (6), judgments shall continue for eight
754 years unless previously satisfied or unless enforcement of the judgment is stayed in accordance
755 with law.

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

760 (3) Prior to and after July 1, 1997, an abstract of judgment issued by the court in which the
761 judgment is entered may be recorded in any court of this state and shall have the same force and
762 effect as a judgment entered in that court.

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

766 (5) (a) If any judgment is appealed, upon deposit with the court where the notice of appeal
767 is filed of cash or other security in a form and amount considered sufficient by the court that
768 rendered the judgment to secure the full amount of the judgment, together with ongoing interest
769 and any other anticipated damages or costs, including attorney's fees and costs on appeal, the lien
770 created by Subsection (2) shall be terminated as provided in Subsection (5)(b).

771 (b) Upon the deposit of sufficient security as provided in Subsection (5)(a), the court shall

772 enter an order terminating the lien created by the judgment under Subsection (2) and granting the
773 judgment creditor a perfected lien in the deposited security as of the date of the original judgment.

774 (6) Enforcement of a child support order may be pursued at any time within four years
775 after the date the youngest child reaches majority.

776 Section 20. Section **78-32-17** is amended to read:

777 **78-32-17. Noncompliance with child support order.**

778 (1) When a court of competent jurisdiction, or the Office of Recovery Services pursuant
779 to an action under Title 63, Chapter 46b, Administrative Procedures Act, makes an order requiring
780 a parent to furnish support or necessary food, clothing, shelter, medical care, or other remedial care
781 for his child, [~~proof that such order was made, filed with the district court,~~] and the parent fails to
782 do so, proof of noncompliance shall be prima facie evidence of contempt of court.

783 (2) Proof of noncompliance may be demonstrated by showing that:

784 (a) the order was made, and filed with the district court; and

785 (b) the parent knew of the order because:

786 (i) the order was mailed to the parent at his last-known address as shown on the court
787 records [~~or proof that~~];

788 (ii) the parent was present in court at the time the order was pronounced[~~, and proof of~~
789 noncompliance therewith shall be prima facie evidence of a contempt of court.];

790 (iii) the parent entered into a written stipulation and the parent or counsel for the parent
791 was sent a copy of the order;

792 (iv) counsel was present in court and entered into a stipulation which was accepted and
793 the order based upon the stipulation was then sent to counsel for the parent; or

794 (v) the parent was properly served and failed to answer.

795 [~~(2)~~] (3) Upon establishment of a prima facie case of contempt under Subsection [~~(1)~~] (2),
796 the obligor under the child support order has the burden of proving inability to comply with the
797 child support order.

798 [~~(3)~~] (4) A court may, in addition to other available sanctions, withhold, suspend, or
799 restrict the use of driver's licenses, professional and occupational licenses, and recreational licenses
800 and impose conditions for reinstatement upon a finding that:

801 (a) an obligor has:

802 (i) made no payment for 60 days on a current obligation of support as set forth in an

803 administrative or court order and, thereafter, has failed to make a good faith effort under the
804 circumstances to make payment on the support obligation in accordance with the order; or

805 (ii) made no payment for 60 days on an arrearage obligation of support as set forth in a
806 payment schedule, written agreement with the Office of Recovery Services, or an administrative
807 or judicial order and, thereafter, has failed to make a good faith effort under the circumstances to
808 make payment on the arrearage obligation in accordance with the payment schedule, agreement,
809 or order; and

810 (iii) not obtained a judicial order staying enforcement of the support or arrearage obligation
811 for which the obligor would be otherwise delinquent;

812 (b) a custodial parent has:

813 (i) violated a child visitation order by denying contact for 60 days between a noncustodial
814 parent and a child and, thereafter, has failed to make a good faith effort under the circumstances
815 to comply with a visitation order; and

816 (ii) not obtained a judicial order staying enforcement of the visitation order; or

817 (c) an obligor or obligee, after receiving appropriate notice, has failed to comply with a
818 subpoena or order relating to a paternity or child support proceeding.

819 Section 21. Section **78-45-2** is amended to read:

820 **78-45-2. Definitions.**

821 As used in this chapter:

822 (1) "Adjusted gross income" means income calculated under Subsection 78-45-7.6(1).

823 (2) "Administrative agency" means the Office of Recovery Services or the Department of
824 Human Services.

825 (3) "Administrative order" means an order that has been issued by the Office of Recovery
826 Services, the Department of Human Services, or an administrative agency of another state or other
827 comparable jurisdiction with similar authority to that of the office.

828 (4) "Base child support award" means the award that may be ordered and is calculated
829 using the guidelines before additions for medical expenses and work-related child care costs.

830 (5) "Base combined child support obligation table," "child support table," "base child
831 support obligation table," "low income table," or "table" means the appropriate table in Section
832 78-45-7.14.

833 (6) "Child" means:

834 (a) a son or daughter under the age of 18 years who is not otherwise emancipated,
835 self-supporting, married, or a member of the armed forces of the United States;

836 (b) a son or daughter over the age of 18 years, while enrolled in high school during the
837 normal and expected year of graduation and not otherwise emancipated, self-supporting, married,
838 or a member of the armed forces of the United States; or

839 (c) a son or daughter of any age who is incapacitated from earning a living and, if able to
840 provide some financial resources to the family, is not able to support self by own means.

841 (7) "Child support" ~~[is defined in Section 62A-11-401]~~ means a base child support award
842 as defined in Section 78-45-2, or a monthly financial award for uninsured medical expenses,
843 ordered by a tribunal for the support of a child, including current periodic payments, all arrearages
844 which accrue under an order for current periodic payments, and sum certain judgments awarded
845 for arrearages, medical expenses, and child care costs.

846 (8) "Child support order" or "support order" ~~[is defined in Section 62A-11-401]~~ means a
847 judgment, decree, or order of a tribunal whether interlocutory or final, whether or not prospectively
848 or retroactively modifiable, whether incidental to a proceeding for divorce, judicial or legal
849 separation, separate maintenance, paternity, guardianship, civil, protection, or otherwise which:

850 (a) establishes or modifies child support;

851 (b) reduces child support arrearages to judgment; or

852 (c) establishes child support or registers a child support order under Title 78, Chapter 45f,
853 Uniform Interstate Family Support Act.

854 ~~[(12)]~~ (9) "Child support services" or "IV-D child support services" means services
855 provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Section [601] 651
856 et seq.

857 ~~[(9)]~~ (10) "Court" means the district court or juvenile court.

858 ~~[(10)]~~ (11) "Guidelines" means the child support guidelines in Sections 78-45-7.2 through
859 78-45-7.21.

860 ~~[(11)]~~ (12) "Income" ~~[is defined in Section 62A-11-303:]~~ means earnings, compensation,
861 or other payment due to an individual, regardless of source, whether denominated as wages, salary,
862 commission, bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick
863 pay, and incentive pay. "Income" includes:

864 (a) all gain derived from capital assets, labor, or both, including profit gained through sale

865 or conversion of capital assets;

866 (b) interest and dividends;

867 (c) periodic payments made under pension or retirement programs or insurance policies

868 of any type;

869 (d) unemployment compensation benefits;

870 (e) workers' compensation benefits; and

871 (f) disability benefits .

872 (13) "Joint physical custody" means the child stays with each parent overnight for more
873 than 25% of the year, and both parents contribute to the expenses of the child in addition to paying
874 child support.

875 (14) "Medical expenses" means health and dental expenses and related insurance costs.

876 (15) "Obligee" ~~[is defined in Section 62A-11-103]~~ means an individual, this state, another
877 state, or another comparable jurisdiction to whom child support is owed or who is entitled to
878 reimbursement of child support or public assistance.

879 (16) "Obligor" means any person owing a duty of support.

880 (17) "Office" means the Office of Recovery Services within the Department of Human
881 Services.

882 (18) "Parent" includes a natural parent, or an adoptive parent~~[-or a stepparent].~~

883 (19) "Split custody" means that each parent has physical custody of at least one of the
884 children.

885 (20) "State" includes any state, territory, ~~[or]~~ possession of the United States, the District
886 of Columbia, ~~[and]~~ the Commonwealth of Puerto Rico, Native American Tribe, or other
887 comparable domestic or foreign jurisdiction.

888 ~~[(21) "Stepchild" means any child having a stepparent.]~~

889 ~~[(22) "Stepparent" means a person ceremonially married to a child's natural or adoptive~~
890 ~~custodial parent who is not the child's natural or adoptive parent or a person living with the natural~~
891 ~~or adoptive parent as a common law spouse, whose common law marriage was entered into in this~~
892 ~~state under Section 30-1-4.5 or in any other state which recognizes the validity of common law~~
893 ~~marriages:]~~

894 (21) "Third party" means an agency or a person other than the biological or adoptive parent
895 or a child who provides care, maintenance, and support to a child.

896 (22) "Tribunal" means the district court, the Department of Human Services, Office of
897 Recovery Services, or court or administrative agency of any state, territory, possession of the
898 United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American
899 Tribe, or other comparable domestic or foreign jurisdiction.

900 (23) "Work-related child care costs" means reasonable child care costs for up to a full-time
901 work week or training schedule as necessitated by the employment or training of a parent under
902 Section 78-45-7.17.

903 (24) "Worksheets" means the forms used to aid in calculating the base child support award.
904 Section 22. Section **78-45-3** is amended to read:

905 **78-45-3. Duty of man.**

906 (1) Every father shall support his child[;] and every child shall be presumed to be in need
907 of the support of his father. Every man shall support his wife when she is in need.

908 (2) Except as limited in a court order under Section 30-3-5, 30-4-3, or 78-45-7.15:

909 (a) The expenses incurred on behalf of a minor child for reasonable and necessary medical
910 and dental expenses, and other necessities are chargeable upon the property of both parents,
911 regardless of the marital status of the parents.

912 (b) Either or both parents may be sued by a creditor for the expenses described in
913 Subsection (2)(a) incurred on behalf of minor children.

914 Section 23. Section **78-45-4** is amended to read:

915 **78-45-4. Duty of woman.**

916 (1) Every woman shall support her child[; ~~and she~~] and every child shall be presumed to
917 be in need of the support of his mother. Every woman shall support her husband when he is in
918 need.

919 (2) Except as limited in a court order under Section 30-3-5, 30-4-3, or 78-45-7.15:

920 (a) The expenses incurred on behalf of a minor child for reasonable and necessary medical
921 and dental expenses, and other necessities are chargeable upon the property of both parents,
922 regardless of the marital status of the parents.

923 (b) Either or both parents may be sued by a creditor for the expenses described in
924 Subsection (2)(a) incurred on behalf of minor children.

925 Section 24. Section **78-45-4.2** is amended to read:

926 **78-45-4.2. Natural or adoptive parent has primary obligation of support -- Right of**

927 **third party to recover support.**

928 Nothing contained [herein] in this chapter shall act to relieve the natural parent or adoptive
 929 parent of the primary obligation of support[~~; furthermore, a stepparent~~]. A third party has the same
 930 right to recover support [~~for a stepchild~~] from the natural or adoptive parent as [~~any other obligee~~]
 931 a custodial parent.

932 Section 25. Section **78-45-4.3** is amended to read:

933 **78-45-4.3. Ward of state -- Primary obligation to support.**

934 [~~Notwithstanding Section 78-45-2, a~~] A natural or an adoptive parent [or stepparent] whose
 935 minor child has become a ward of [the] this or any other state is not relieved of the primary
 936 obligation to support that child until he reaches the age of majority, regardless of any agreements
 937 or legal defenses that may exist between the parents or other care providers. Any state that
 938 provides support for a child shall have the right to reimbursement.

939 Section 26. Section **78-45-4.4** is enacted to read:

940 **78-45-4.4. Support follows the child.**

941 (1) Obligations ordered for child support and medical expenses are for the use and benefit
 942 of the child and shall follow the child.

943 (2) Except in cases of joint physical custody and split custody as defined in Section
 944 78-45-2, when physical custody changes from that assumed in the original order, the parent
 945 without physical custody of a child shall be required to pay the amount of support determined in
 946 accordance with Sections 78-45-7.7 and 78-45-7.15, without the need to modify the order for:

947 (a) the parent who has physical custody of the child;

948 (b) a relative to whom physical custody of the child has been voluntarily given; or

949 (c) the state when the child is residing outside of the home in the protective custody,
 950 temporary custody, or custody or care of the state or a state-licensed facility for at least 30 days.

951 Section 27. Section **78-45-4.5** is enacted to read:

952 **78-45-4.5. Waiver and estoppel.**

953 (1) Waiver and estoppel shall apply only to the custodial parent when there is no order
 954 already established by a tribunal if the custodial parent freely and voluntarily waives support
 955 specifically and in writing.

956 ~~§ (2) Waiver and estoppel may not apply if there is an order establishing support.]~~

957 ~~(3) (2) §~~ Waiver and estoppel may not be applied against any third party or public entity that

958 may provide support for the child.

959 (4) A noncustodial parent, or alleged biological father in a paternity action, may not rely
960 on statements made by the custodial parent of the child concerning child support unless the
961 statements are reduced to writing and signed by both parties.

962 Section 28. Section **78-45-7.3** is amended to read:

963 **78-45-7.3. Procedure -- Documentation -- Stipulation.**

964 (1) In [~~a default or uncontested proceeding~~] any matter in which child support is ordered,
965 the moving party shall submit:

- 966 (a) a completed child support worksheet;
- 967 (b) the financial verification required by Subsection 78-45-7.5(5); [~~and~~]
- 968 (c) a written statement indicating whether or not the amount of child support requested
969 is consistent with the guidelines[~~;~~]; and
- 970 (d) the information required under Subsection (3).

971 (2) (a) If the documentation of income required under Subsection (1) is not available, a
972 ~~defaulting~~] ____ party's income by the moving party, based on the
973

974 (b) The evidence shall be in affidavit form and may only be offered after a copy has been
provided to the [~~defaulting other~~] party in accordance with Utah Rules of Civil Procedure or Title
63, Chapter 46b, Administrative Procedures Act, in an administrative proceeding.

977 (3) (a) ~~In a stipulated proceeding, one of the moving parties shall submit:]~~

- 978 [~~(i) a completed child support worksheet;~~
- 979 [_____]
- 980 ~~(iii) a written statement indicating whether or not the amount of child support requested~~
- 981 ~~_____]~~

982 ~~(b) A hearing is not required, but the guidelines shall be used to review the adequacy of~~
983 ~~_____]~~

984 _____
985 or enforce a support order, each party shall file identifying information and shall update that
information as changes occur with the court that conducted the proceeding.

987 _____
988 driver's license number, residential and mailing addresses, telephone numbers, the name, address

989 and telephone number of employers, and any other data required by the United States Secretary
990 of Health and Human Services.

991 (b) Attorneys representing the office in child support services cases are not required to file
992 the identifying information required by Subsection (3)(a).

993 [~~e~~] (4) A stipulated amount for child support or combined child support and alimony is
994 adequate under the guidelines if the stipulated child support amount or combined amount equals
995 or exceeds the base child support award required by the guidelines.

996 Section 29. Section **78-45-7.5** is amended to read:

997 **78-45-7.5. Determination of gross income -- Imputed income.**

998 (1) As used in the guidelines, "gross income" includes:

999 (a) prospective income from any source, including nonearned sources, except under
1000 Subsection (3); and

1001 (b) income from salaries, wages, commissions, royalties, bonuses, rents, gifts from anyone,
1002 prizes, dividends, severance pay, pensions, interest, trust income, alimony from previous
1003 marriages, annuities, capital gains, social security benefits, workers' compensation benefits,
1004 unemployment compensation, disability insurance benefits, and payments from "nonmeans-tested"
1005 government programs.

1006 (2) Income from earned income sources is limited to the equivalent of one full-time
1007 40-hour job. However, if and only if during the time prior to the original support order, the parent
1008 normally and consistently worked more than 40 hours at his job, the court may consider this extra
1009 time as a pattern in calculating the parent's ability to provide child support.

1010 (3) Specifically excluded from gross income are:

1011 (a) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment
1012 Program;

1013 (b) benefits received under a housing subsidy program, the Job Training Partnership Act,
1014 Supplemental Security Income, Social Security Disability Insurance, Medicaid, Food Stamps, or
1015 General Assistance; and

1016 (c) other similar means-tested welfare benefits received by a parent.

1017 (4) (a) Gross income from self-employment or operation of a business shall be calculated
1018 by subtracting necessary expenses required for self-employment or business operation from gross
1019 receipts. The income and expenses from self-employment or operation of a business shall be

1020 reviewed to determine an appropriate level of gross income available to the parent to satisfy a child
1021 support award. Only those expenses necessary to allow the business to operate at a reasonable
1022 level may be deducted from gross receipts.

1023 (b) Gross income determined under this subsection may differ from the amount of business
1024 income determined for tax purposes.

1025 (5) (a) When possible, gross income should first be computed on an annual basis and then
1026 recalculated to determine the average gross monthly income.

1027 (b) Each parent shall provide verification of current income. Each parent shall provide
1028 year-to-date pay stubs or employer statements and complete copies of tax returns from at least the
1029 most recent year unless the court finds the verification is not reasonably available. Verification
1030 of income from records maintained by the Department of Workforce Services may be substituted
1031 for pay stubs, employer statements, and income tax returns.

1032 (c) Historical and current earnings shall be used to determine whether an
1033 underemployment or overemployment situation exists.

1034 (6) Gross income includes income imputed to the parent under Subsection (7).

1035 (7) (a) Income may not be imputed to a parent unless the parent stipulates to the amount
1036 imputed ~~[or], the party defaults, or, in contested cases,~~ a hearing is held and a finding made that
1037 the parent is voluntarily unemployed or underemployed.

1038 (b) If income is imputed to a parent, the income shall be based upon employment potential
1039 and probable earnings as derived from work history, occupation qualifications, and prevailing
1040 earnings for persons of similar backgrounds in the community, or the median earning for persons
1041 in the same occupation in the same geographical area as found in the statistics maintained by the
1042 Bureau of Labor Statistics.

1043 (c) If a parent has no recent work history or their occupation is unknown, income shall be
1044 imputed at least at the federal minimum wage for a 40-hour work week. To impute a greater
1045 income, the judge in a judicial proceeding or the presiding officer in an administrative proceeding
1046 shall enter specific findings of fact as to the evidentiary basis for the imputation.

1047 (d) Income may not be imputed if any of the following conditions exist:

1048 (i) the reasonable costs of child care for the parents' minor children approach or equal the
1049 amount of income the custodial parent can earn;

1050 (ii) a parent is physically or mentally disabled to the extent he cannot earn minimum wage;

1051 (iii) a parent is engaged in career or occupational training to establish basic job skills; or
1052 (iv) unusual emotional or physical needs of a child require the custodial parent's presence

1053

1054 (8) (a) Gross income may not include the earnings of a minor child who is the subject of
a child support award nor benefits to a minor child in the child's own right such as Supplemental

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1057 (b) Social Security benefits received by a child due to the earnings of a parent shall be
credited as child support to the parent upon whose earning record it is based, by crediting the

1059

1060 considered as income to a parent depending upon the circumstances of each case.

Section 30. Section **78-45-7.7**

1062 **78-45-7.7. Calculation of obligations.**

1063 ~~The parents'] _____ child support obligation shall be [divided between them~~
1064 established

1065 Except during periods of court-ordered visitation as set forth in Section 78-45-7.11, the parents are
obligated to pay their proportionate shares of the base combined child support obligation. If

1067

1068 order is not necessary, even if only one parent is specifically ordered to pay in the order.

(2) Except in cases of joint physical custody and split custody as defined in Section

1070

1071 child support award shall be determined as follows:

(a) combine the adjusted gross incomes of the parents and determine the base combined

1073

1074 (b) calculate each parent's proportionate share of the base combined child support
obligation by multiplying the combined child support obligation by each parent's percentage of

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1077 (3) In the case of an incapacitated adult child, any amount that the incapacitated adult child
can contribute to his or her support may be considered in the determination of child support and

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1080 orders involving multiple children, the reduction shall not be greater than the effect of reducing
the total number of children by one in the child support table calculation.

1082 (4) In cases where the monthly adjusted gross income of the obligor is between \$650 and
1083 \$1,050, the base child support award shall be the lesser of the amount calculated in accordance
1084 with Subsection (2) and the amount calculated using the low income table. If the income and
1085 number of children is found in an area of the low income table in which no amount is shown, the
1086 base combined child support obligation table is to be used.

1087 (5) The base combined child support obligation table provides combined child support
1088 obligations for up to six children. For more than six children, additional amounts may be added
1089 to the base child support obligation shown. Unless rebutted by Subsection 78-45-7.2(3), the
1090 amount ordered shall not be less than the amount which would be ordered for up to six children.

1091 (6) If the monthly adjusted gross income of the obligor is \$649 or less, the [~~court or~~
1092 ~~administrative agency~~] tribunal shall determine the amount of the child support obligation on a
1093 case-by-case basis, but the base child support award shall not be less than \$20.

1094 (7) The amount shown on the table is the support amount for the total number of children,
1095 not an amount per child.

1096 Section 31. Section **78-45-7.10** is amended to read:

1097 **78-45-7.10. Adjustment when child becomes emancipated.**

1098 (1) When a child becomes 18 years of age, or has graduated from high school during the
1099 child's normal and expected year of graduation, whichever occurs later, the base child support
1100 award is automatically [~~reduced~~] adjusted to reflect the [~~lower~~] base combined child support
1101 obligation shown in the table for the remaining number of children due child support, unless
1102 otherwise provided in the child support order.

1103 (2) The award may not be reduced by a per child amount derived from the base child
1104 support award originally ordered.

1105 (3) The income used for purposes of adjusting the support shall be the income of the
1106 parties at the time of the entry of the original order. If income was not listed in the findings or
1107 order and worksheets were not submitted, the parties may submit tax returns or other verification
1108 of the income.

1109 Section 32. Section **78-45-9.3**, which is renumbered from Section 30-3-10.6 is renumbered
1110 and amended to read:

1111 [~~30-3-10.6~~]. **78-45-9.3. Payment under child support order -- Judgment.**

1112 (1) All monthly payments of child support shall be due on the 1st day of each month for

1113 purposes of child support services pursuant to Title 62A, Chapter 11, Part 3, income withholding
 1114 services pursuant to Part 4, and income withholding procedures pursuant to Part 5.

1115 (2) For purposes of child support services and income withholding pursuant to Title 62A,
 1116 Chapter 11, Part 3 and Part 4, child support is not considered past due until the 1st day of the
 1117 following month. For purposes other than those specified in Subsection (1) support shall be
 1118 payable 1/2 by the 5th day of each month and 1/2 by the 20th day of that month, unless the order
 1119 or decree provides for a different time for payment.

1120 ~~[(1)]~~ (3) Each payment or installment of child or spousal support under any child support
 1121 order, as defined by Section ~~[62A-11-401]~~ 78-45-2, is, on and after the date it is due:

1122 (a) a judgment with the same attributes and effect of any judgment of a district court,
 1123 except as provided in Subsection ~~[(2)]~~ (4);

1124 (b) entitled, as a judgment, to full faith and credit in this and in any other jurisdiction; and

1125 (c) not subject to retroactive modification by this or any other jurisdiction, except as
 1126 provided in Subsection ~~[(2)]~~ (4).

1127 ~~[(2)]~~ (4) A child or spousal support payment under a child support order may be modified
 1128 with respect to any period during which a ~~[petition for]~~ modification is pending, but only from the
 1129 date ~~[notice of that petition was given to]~~ of service of the pleading on the obligee, if the obligor
 1130 is the petitioner, or ~~[to]~~ on the obligor, if the obligee is the petitioner. The tribunal shall order a
 1131 judgment for the period from the service of the pleading until the final order of modification is
 1132 entered for any difference in the original order and the modified amount.

1133 ~~[(3)]~~ (5) For purposes of this section, "jurisdiction" means a state or political subdivision,
 1134 a territory or possession of the United States, the District of Columbia, and the Commonwealth
 1135 of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

1136 ~~[(4)]~~ (6) The judgment provided for in Subsection ~~[(1)]~~ (3)(a), to be effective and
 1137 enforceable as a lien against the real property interest of any third party relying on the public
 1138 record, shall be docketed in the district court in accordance with Sections 78-22-1 and
 1139 62A-11-312.5.

1140 Section 33. Section **78-45f-101** is amended to read:

1141 **78-45f-101. Definitions.**

1142 In this chapter:

1143 (1) "Child" means an individual, whether over or under the age of majority, who is or is

1144 alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the
1145 beneficiary of a support order directed to the parent.

1146 (2) "Child support order" means a support order for a child, including a child who has
1147 attained the age of majority under the law of the issuing state.

1148 (3) "Duty of support" means an obligation imposed or imposable by law to provide support
1149 for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

1150 (4) "Home state" means the state in which a child lived with a parent or a person acting
1151 as parent for at least six consecutive months immediately preceding the time of filing of a petition
1152 or comparable pleading for support and, if a child is less than six months old, the state in which
1153 the child lived from birth with any of them. A period of temporary absence of any of them is
1154 counted as part of the six-month or other period.

1155 (5) "Income" includes earnings or other periodic entitlements to money from any source
1156 and any other property subject to withholding for support under the law of this state.

1157 (6) "Income-withholding order" means an order or notice directed to an obligor's employer
1158 [~~directing the employer~~] or other source of income as defined in Section 62A-11-103, to withhold
1159 support from the income of the obligor in accordance with Title 62A, Chapter 11, Part 4 or Part
1160 5.

1161 (7) "Initiating state" means a state from which a proceeding is forwarded or in which a
1162 proceeding is filed for forwarding to a responding state under this chapter or a law or procedure
1163 substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the
1164 Revised Uniform Reciprocal Enforcement of Support Act.

1165 (8) "Initiating tribunal" means the authorized tribunal in an initiating state.

1166 (9) "Issuing state" means the state in which a tribunal issues a support order or renders a
1167 judgment determining parentage.

1168 (10) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment
1169 determining parentage.

1170 (11) "Law" includes decisional and statutory law and rules and regulations having the force
1171 of law.

1172 (12) "Obligee" means:

1173 (a) an individual to whom a duty of support is or is alleged to be owed or in whose favor
1174 a support order has been issued or a judgment determining parentage has been rendered;

1175 (b) a state or political subdivision to which the rights under a duty of support or support
1176 order have been assigned or which has independent claims based on financial assistance provided
1177 to an individual obligee; or

1178 (c) an individual seeking a judgment determining parentage of the individual's child.

1179 (13) "Obligor" means an individual, or the estate of a decedent who:

1180 (a) owes or is alleged to owe a duty of support;

1181 (b) is alleged but has not been adjudicated to be a parent of a child; or

1182 (c) is liable under a support order.

1183 (14) "Register" means to file a support order or judgment determining parentage in the
1184 district court.

1185 (15) "Registering tribunal" means a tribunal in which a support order is registered.

1186 (16) "Responding state" means a state in which a proceeding is filed or to which a
1187 proceeding is forwarded for filing from an initiating state under this chapter or a law or procedure
1188 substantially similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or the
1189 Revised Uniform Reciprocal Enforcement of Support Act.

1190 (17) "Responding tribunal" means the authorized tribunal in a responding state.

1191 (18) "Spousal-support order" means a support order for a spouse or former spouse of the
1192 obligor.

1193 (19) "State" means a state of the United States, the District of Columbia, Puerto Rico, the
1194 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the
1195 United States. The term includes an Indian tribe and a foreign jurisdiction that has enacted a law
1196 or established procedures for issuance and enforcement of support orders which are substantially
1197 similar to the procedures under this chapter, the Uniform Reciprocal Enforcement of Support Act,
1198 or the Revised Uniform Reciprocal Enforcement of Support Act.

1199 (20) "Support enforcement agency" means a public official or agency authorized to seek:

1200 (a) enforcement of support orders or laws relating to the duty of support;

1201 (b) establishment or modification of child support;

1202 (c) determination of parentage; or

1203 (d) to locate obligors or their assets.

1204 (21) "Support order" means a judgment, decree, or order, whether temporary, final, or
1205 subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for

1206 monetary support, health care, arrearages, or reimbursement, and may include related costs and
1207 fees, interest, income withholding, attorney's fees, and other relief.

1208 (22) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized
1209 to establish, enforce, or modify support orders or to determine parentage.

1210 Section 34. Section **78-45f-605** is amended to read:

1211 **78-45f-605. Notice of registration of order.**

1212 (1) When a support order or income-withholding order issued in another state is registered,
1213 the registering tribunal shall notify the nonregistering party. The notice must be accompanied by
1214 a copy of the registered order and the documents and relevant information accompanying the order.

1215 (2) The notice must inform the nonregistering party:

1216 (a) that a registered order is enforceable as of the date of registration in the same manner
1217 as an order issued by a tribunal of this state;

1218 (b) that a hearing to contest the validity or enforcement of the registered order must be
1219 requested within 20 days after the date of mailing or personal service of the notice;

1220 (c) that failure to contest the validity or enforcement of the registered order in a timely
1221 manner will result in confirmation of the order and enforcement of the order and the alleged
1222 arrearages and precludes further contest of that order with respect to any matter that could have
1223 been asserted; and

1224 (d) of the amount of any alleged arrearages.

1225 (3) Upon registration of an income-withholding order for enforcement, the registering
1226 tribunal shall notify the obligor's employer pursuant to Title 62A, Chapter 11, Part 4, Income
1227 Withholding In IV-D Cases.

1228 Section 35. Section **78-45f-606** is amended to read:

1229 **78-45f-606. Procedure to contest validity or enforcement of registered order.**

1230 (1) A nonregistering party seeking to contest the validity or enforcement of a registered
1231 order in this state shall request a hearing within 20 days after notice of the registration. The
1232 nonregistering party may seek to vacate the registration, to assert any defense to an allegation of
1233 noncompliance with the registered order, or to contest the remedies being sought or the amount
1234 of any alleged arrearages pursuant to ~~[this]~~ Section 78-45f-607.

1235 (2) If the nonregistering party fails to contest the validity or enforcement of the registered
1236 order in a timely manner, the order is confirmed by operation of law.

1237 (3) If a nonregistering party requests a hearing to contest the validity or enforcement of the
1238 registered order, the registering tribunal shall schedule the matter for hearing and give notice to
1239 the parties of the date, time, and place of the hearing.

1240 Section 36. Section **78-45f-701** is amended to read:

1241 **78-45f-701. Proceeding to determine parentage.**

1242 (1) A tribunal of this state may serve as an initiating or responding tribunal in a proceeding
1243 brought under this chapter or a law or procedure substantially similar to this chapter [or], the
1244 Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement
1245 of Support Act to determine that the petitioner is a parent of a particular child or to determine that
1246 a respondent is a parent of that child.

1247 (2) In a proceeding to determine parentage, a responding tribunal of this state shall apply
1248 Title 78, Chapter 45a, Uniform Act on Paternity, and the rules of this state on choice of law.

1249 Section 37. Section **78-45f-802** is amended to read:

1250 **78-45f-802. Conditions of rendition.**

1251 (1) Before making demand that the governor of another state surrender an individual
1252 charged criminally in this state with having failed to provide for the support of an obligee, the
1253 governor of this state may require a prosecutor of this state to demonstrate that at least 60 days
1254 previously the obligee had initiated proceedings for support pursuant to this chapter or that the
1255 proceeding would be of no avail.

1256 (2) If, under this chapter or a law substantially similar to this chapter [or], the Uniform
1257 Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of
1258 Support Act, the governor of another state makes a demand that the governor of this state surrender
1259 an individual charged criminally in that state with having failed to provide for the support of a
1260 child or other individual to whom a duty of support is owed, the governor may require a prosecutor
1261 to investigate the demand and report whether a proceeding for support has been initiated or would
1262 be effective. If it appears that a proceeding would be effective but has not been initiated, the
1263 governor may delay honoring the demand for a reasonable time to permit the initiation of a
1264 proceeding.

1265 (3) If a proceeding for support has been initiated and the individual whose rendition is
1266 demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and
1267 the individual whose rendition is demanded is subject to a support order, the governor may decline

1268 to honor the demand if the individual is complying with the support order.

1269 Section 38. Section **78-45f-902** is enacted to read:

1270 **78-45f-902. Severability clause.**

1271 If any provision of this chapter or its application to any person or circumstance is held
 1272 invalid, the invalidity does not affect other provision or application of this chapter which can be
 1273 given effect without the invalid provision or application, and to this end the provision of this
 1274 chapter are severable.

1275 § [~~Section 39. Section 78-51-41 is amended to read:~~

1276 ~~———— 78-51-41. Compensation -- Lien. ————~~

1277 ~~———— (1) The compensation of an attorney and counselor for services is governed by agreement,~~
 1278 ~~express or implied, which is not restrained by law. From the commencement of an action, or the~~
 1279 ~~service of an answer containing a counterclaim or at the time that the attorney and client enter into~~
 1280 ~~a written or oral employment agreement, the attorney who is so employed has a lien upon the~~
 1281 ~~client's cause of action or counterclaim, which attaches to any settlement, verdict, report, decision,~~
 1282 ~~or judgment in the client's favor and to the proceeds thereof in whosoever hands they may come,~~
 1283 ~~and cannot be affected by any settlement between the parties before or after judgment. Any written~~
 1284 ~~employment agreement shall contain a statement that the attorney has a lien upon the client's cause~~
 1285 ~~of action or counterclaim.~~

1286 ~~———— (2) A lien for attorneys' fees may not be attached against child support or against any funds~~
 1287 ~~which are being collected through an agency providing child support services as defined in Section~~
 1288 ~~78-45-2.] §~~

1289 Section 40. **Repealer.**

1290 This act repeals:

1291 Section **78-45-4.1, Duty of stepparent to support stepchild -- Effect of termination of**
 1292 **marriage or common law relationship.**

Legislative Review Note

as of 1-24-00 11:54 AM

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

Office of Legislative Research and General Counsel