

1 **CHILD SUPPORT GUIDELINES**

2 2000 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Lyle W. Hillyard**

5 AN ACT RELATING TO THE JUDICIAL CODE; PROVIDING FOR A REDUCTION IN THE
6 CHILD SUPPORT OBLIGATION FOR PARENTS WITH JOINT PHYSICAL CUSTODY WHO
7 HAVE A CHILD BEYOND A SPECIFIC PERIOD OF TIME.

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

9 AMENDS:

10 **78-45-2**, as last amended by Chapter 53, Laws of Utah 1998

11 **78-45-7.9**, as last amended by Chapter 118, Laws of Utah 1994

12 **78-45-7.11**, as last amended by Chapter 174, Laws of Utah 1997

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

14 Section 1. Section **78-45-2** is amended to read:

15 **78-45-2. Definitions.**

16 As used in this chapter:

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

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

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

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

25 (5) "Base combined child support obligation table," "child support table," "base child
26 support obligation table," "low income table," or "table" means the appropriate table in Section
27 78-45-7.14.

- 28 (6) "Child" means:
- 29 (a) a son or daughter under the age of 18 years who is not otherwise emancipated,
- 30 self-supporting, married, or a member of the armed forces of the United States;
- 31 (b) a son or daughter over the age of 18 years, while enrolled in high school during the
- 32 normal and expected year of graduation and not otherwise emancipated, self-supporting, married,
- 33 or a member of the armed forces of the United States; or
- 34 (c) a son or daughter of any age who is incapacitated from earning a living and, if able to
- 35 provide some financial resources to the family, is not able to support self by own means.
- 36 (7) "Child support" is defined in Section 62A-11-401.
- 37 (8) "Child support order" or "support order" is defined in Section 62A-11-401.
- 38 (9) "Court" means the district court or juvenile court.
- 39 (10) "Guidelines" means the child support guidelines in Sections 78-45-7.2 through
- 40 78-45-7.21.
- 41 (11) "Income" is defined in Section 62A-11-303.
- 42 (12) "IV-D" means Title IV of the Social Security Act, 42 U.S.C. Section 601 et seq.
- 43 (13) "Joint physical custody" means the child stays with each parent overnight for more
- 44 than [25%] 30% of the year, and both parents contribute to the expenses of the child in addition
- 45 to paying child support.
- 46 (14) "Medical expenses" means health and dental expenses and related insurance costs.
- 47 (15) "Obligee" is defined in Section 62A-11-103.
- 48 (16) "Obligor" means any person owing a duty of support.
- 49 (17) "Office" means the Office of Recovery Services within the Department of Human
- 50 Services.
- 51 (18) "Parent" includes a natural parent, or an adoptive parent, or a stepparent.
- 52 (19) "Split custody" means that each parent has physical custody of at least one of the
- 53 children.
- 54 (20) "State" includes any state, territory, or possession of the United States, the District
- 55 of Columbia, and the Commonwealth of Puerto Rico.
- 56 (21) "Stepchild" means any child having a stepparent.
- 57 (22) "Stepparent" means a person ceremonially married to a child's natural or adoptive
- 58 custodial parent who is not the child's natural or adoptive parent or a person living with the natural

59 or adoptive parent as a common law spouse, whose common law marriage was entered into in this
60 state under Section 30-1-4.5 or in any other state which recognizes the validity of common law
61 marriages.

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

65 (24) "Worksheets" means the forms used to aid in calculating the base child support award.
66 Section 2. Section **78-45-7.9** is amended to read:

67 **78-45-7.9. Joint physical custody -- Obligation calculations.**

68 In cases of joint physical custody, the base child support award shall be determined as
69 follows:

70 (1) Combine the adjusted gross incomes of the parents and determine the base combined
71 child support obligation using the base combined child support obligation table.

72 (2) Calculate each parent's proportionate share of the base combined child support
73 obligation by multiplying the base combined child support obligation by each parent's percentage
74 of combined adjusted gross income. The amounts so calculated are [a tentative] the base child
75 support obligation due from each parent for support of the children.

76 [~~(3) Multiply each parent's tentative base child support obligation by the percentage of time
77 the children spend with the other parent to determine each parent's tentative obligation to the other
78 parent.~~]

79 [~~(4) Calculate the base child support award to be paid by the obligor by subtracting the
80 lesser amount calculated in Subsection (3) from the larger amount.~~]

81 [~~(5) The parent determined to be the obligor in Subsection (4) shall pay the amount
82 calculated in Subsection (4) when the obligee has physical custody.~~]

83 (3) If the obligor's time with the children exceeds 110 overnights, the obligation shall be
84 calculated further as follows:

85 (a) if the amount of time to be spent with the children is between 110 and 131 overnights,
86 multiply the number of overnights over 110 by .0027, then multiply the result by the base
87 combined child support obligation, and then subtract the result from the obligor's payment as
88 determined by Subsection (2) to arrive at the obligor's payment; or

89 (b) if the amount of time to be spent with the children is 131 overnights or more, multiply

90 the number of overnights over 130 by .0084, then multiply the result by the base combined child
91 support obligation, and then subtract the result from the obligor's payment as determined in
92 Subsection (3)(a) to arrive at the obligor's payment.

93 Section 3. Section **78-45-7.11** is amended to read:

94 **78-45-7.11. Reduction for extended visitation.**

95 (1) The child support order shall provide that the base child support award be reduced by
96 50% for each child for time periods during which the child is with the noncustodial parent by order
97 of the court or by written agreement of the parties for at least 25 of any 30 consecutive days. If the
98 dependent child is a client of cash assistance provided under Title 35A, Chapter 3, Part 3, Family
99 Employment Program, any agreement by the parties for reduction of child support during extended
100 visitation shall be approved by the administrative agency. However, normal visitation and holiday
101 visits to the custodial parent shall not be considered an interruption of the consecutive day
102 requirement.

103 (2) For purposes of this section the per child amount to which the abatement applies shall
104 be calculated by dividing the base child support award by the number of children included in the
105 award.

106 (3) The reduction in this section does not apply to parents with joint physical custody
107 obligations calculated in accordance with Section 78-45-7.9.

Legislative Review Note
as of 1-31-00 5:46 PM

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

Office of Legislative Research and General Counsel