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SUPPORT FOR CHILDREN IN STATE**CUSTODY**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Eli H. Anderson

This act modifies the Juvenile Court Act by clarifying when child support is to be paid to the state or a third party if the state takes custody of a minor. The act also sets out requirements to be followed by the parents or obligated person to insure that the support is paid.

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

AMENDS:

78-3a-906, as last amended by Chapters 161 and 207, Laws of Utah 2000

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

Section 1. Section **78-3a-906** is amended to read:

78-3a-906. Child support obligation when custody of a minor is vested in an individual or institution.

(1) When legal custody of a minor is vested by the court in ~~[an individual,]~~ a secure youth corrections facility~~;~~ or any other state department, division, or agency other than his parents, the court shall ~~[in] order the parents, a parent, or any other obligated person to pay child support for each month the child is in custody. In the same and any subsequent proceeding the court shall~~ inform the parents, a parent, or any other obligated person ~~[who may be obligated]~~, verbally and in writing, of the requirement ~~[of paying] to pay~~ child support in accordance with Title 78, Chapter 45, Uniform Civil Liability for Support Act~~[- and, if Subsection (2) applies, the requirement of meeting with the Office of Recovery Services within 30 days to establish a child support order and the penalty in Subsection (4) for failing to do so. If there is no existing child support in favor of the state for the minor, the liability for support shall accrue beginning on the 61st day following the proceeding].~~

(2) ~~[The]~~ If legal custody of a minor is vested by the court in a secure youth corrections

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28 facility, or any other state department, division, or agency, the court may refer the establishment
29 of a child support order to the Office of Recovery Services. The referral shall be sent to the Office
30 of Recovery Services within three working days of the hearing. Support obligation amounts shall
31 be set by the Office of Recovery Services in accordance with Title 78, Chapter 45, Uniform Civil
32 Liability for Support Act.

33 ~~[(3) (a) At the time that a child support order is established and a specific child support~~
34 ~~amount is set, the order may not require the payment of support arrears that occurred more than~~
35 ~~two months prior to the setting of the child support amount.]~~

36 (3) If Subsection (2) applies, the court shall also inform the parties that they are required
37 to contact the Office of Recovery Services within 30 days of the date of the hearing to establish
38 a child support order and the penalty in Subsection (5) for failing to do so. If there is no existing
39 child support order for the child, the liability for support shall accrue beginning on the 61st day
40 following the hearing that occurs the first time the court vests custody of the child in a secure youth
41 corrections facility, or any other state department, division, or agency other than his parents.

42 (4) If a child is returned home and legal custody is subsequently vested by the court in a
43 secure youth corrections facility or any other state department, division, or agency other than his
44 parents, the liability for support shall accrue from the date the minor is subsequently removed from
45 the home, including time spent in detention or sheltered care.

46 (5) (a) If the parents, parent, or other obligated person meets with the Office of Recovery
47 Services within 30 days of the date of the hearing, the child support order may not include a
48 judgment for past due support for more than two months.

49 (b) Notwithstanding Subsection [(3)] (5)(a), the court may order the liability of support
50 to begin to accrue from the date of the proceeding referenced in Subsection (1) if:

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

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

57 (c) For purposes of Subsection [(3)] (5)(b)(ii), the Office of Recovery Services shall be
58 presumed to have taken reasonable steps if the office:

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

(ii) has had a documented conversation, whether by telephone or in person, with the parents, parent, or other obligated person regarding the requirement that a child support order be established.

~~[(4)]~~ (6) In collecting arrears, the Office of Recovery Services shall comply with Section 62A-11-320 in setting a payment schedule or demanding payment in full.

~~[(5)]~~ (7) Unless otherwise ordered, the parents or other person shall pay the child support to the Office of Recovery Services ~~[for transmission to the person or agency having legal custody of the minor or to whom compensation is due]~~. The clerk of the court ~~[or]~~, the Office of Recovery Services, or the Department of Human Services and its divisions shall have authority to receive periodic payments for the care and maintenance of the minor, such as Social Security payments or railroad retirement payments made in the name of or for the benefit of the minor.

~~[(6)]~~ (8) No court order under this section against a parent or other person shall be entered, unless ~~[summons]~~ notice of hearing has been served within the state, a voluntary appearance is made, or a waiver of service given. The ~~[summons]~~ notice shall specify that a hearing with respect to the financial support of the minor will be held.

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

~~[(8)]~~ (9) An existing child support order payable to a parent or other obligated person shall be assigned to the ~~[division]~~ Department of Human Services as provided in Section 62A-1-117.

~~[(9)]~~ ~~If the court vests legal custody of a minor to a nongovernmental agency, the agency shall make periodic reports to the court concerning the care and treatment the minor is receiving and his response to such treatment. Such reports shall be made at such intervals as the court may direct and shall be made with respect to each minor at least every six months. The agency shall also afford an opportunity for a representative of the court to visit the minor as frequently as the court considers necessary.]~~

(10) (a) Subsections (2) through (9) shall not apply if legal custody of a minor is vested by the court in an individual.

90 **(b) If legal custody of a minor is vested by the court in an individual, the court may order**
91 **the parents, a parent, or any other obligated person to pay child support to the individual. In the**
92 **same and in any subsequent proceeding the court shall inform the parents, a parent, or any other**
93 **obligated person, verbally and in writing, of the requirement to pay child support in accordance**
94 **with Title 78, Chapter 45, Uniform Civil Liability for Support Act.**

Legislative Review Note
as of 1-5-01 3:25 PM

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

Office of Legislative Research and General Counsel