

Senator Lyle W. Hillyard proposes the following substitute bill:

**CHILD SUPPORT AND PATERNITY**

**AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Lyle W. Hillyard**

**This act modifies provisions relating to paternity and child support. It provides definitions for "declarant father" and "presumptive father" and allows for a declaration of paternity by a declarant father even if a presumptive father exists, allows for registration of the declaration, and provides for the modification of a divorce decree or child support order after paternity is determined. The act modifies provisions for reimbursement by a child's parents if the child is removed from a home and the Juvenile Court finds that the allegations were insufficient. This act also modifies child support and parent-time provisions by clarifying provisions relating to deviations from the child support guidelines, and allowing for reductions in child support for extended parent-time.**

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

AMENDS:

**26-2-2**, as last amended by Chapter 202, Laws of Utah 1995

**26-2-5**, as last amended by Chapter 188, Laws of Utah 1998

**30-3-5**, as last amended by Chapter 255, Laws of Utah 2001

**30-3-10.2**, as last amended by Chapter 126, Laws of Utah 2001

**30-3-35.5**, as last amended by Chapters 130 and 255, Laws of Utah 2001

**62A-4a-114**, as last amended by Chapter 207, Laws of Utah 2000

**62A-11-104**, as last amended by Chapter 147, Laws of Utah 2002

**62A-11-304.4**, as last amended by Chapter 59, Laws of Utah 2002



- 26           **62A-11-312.5**, as last amended by Chapter 161, Laws of Utah 2000
- 27           **70A-3-311**, as enacted by Chapter 237, Laws of Utah 1993
- 28           **78-3a-118**, as last amended by Chapters 2 and 8, Laws of Utah 2002, Fifth Special
- 29 Session
- 30           **78-3a-906**, as last amended by Chapter 300, Laws of Utah 2001
- 31           **78-22-1**, as last amended by Chapter 370, Laws of Utah 2001
- 32           **78-45-7.2**, as last amended by Chapter 232, Laws of Utah 1997
- 33           **78-45-7.10**, as last amended by Chapter 161, Laws of Utah 2000
- 34           **78-45-7.11**, as last amended by Chapter 255, Laws of Utah 2001
- 35           **78-45-7.15**, as last amended by Chapter 258, Laws of Utah 1995
- 36           **78-45-9**, as last amended by Chapter 258, Laws of Utah 1995
- 37           **78-45-9.3**, as renumbered and amended by Chapter 161, Laws of Utah 2000
- 38           **78-45a-7**, as last amended by Chapter 232, Laws of Utah 1997
- 39           **78-45e-2**, as last amended by Chapter 232, Laws of Utah 1997
- 40           **78-45e-3**, as last amended by Chapter 188, Laws of Utah 1998
- 41           **78-45e-4**, as last amended by Chapter 232, Laws of Utah 1997

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

43           Section 1. Section **26-2-2** is amended to read:

44           **26-2-2. Definitions.**

45           As used in this chapter:

46           (1) "Dead body" or "decedent" means a human body or parts of the human body from  
47 the condition of which it reasonably may be concluded that death occurred.

48           (2) "Dead fetus" means a product of human conception:

49           (a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual  
50 period began to the date of delivery; and

51           (b) that was not born alive.

52           (3) "Declarant father" means a male who, with the biological mother, declares that he  
53 is the father of a child conceived as a result of sexual intercourse with the mother.

54           ~~(3)~~ (4) "File" means the submission of a completed certificate or other similar  
55 document, record, or report as provided under this chapter for registration by the state registrar  
56 or a local registrar.

57            [~~(4)~~] (5) "Funeral director" or "person acting as the funeral director" means the person  
 58 who takes possession of a dead body or dead fetus, prepares the dead body or dead fetus and  
 59 arranges for its final disposition, and includes:

- 60            (a) a licensed funeral director;
- 61            (b) a representative of a hospital which is making final disposition; or
- 62            (c) another person assuming responsibility for the final disposition of the remains.

63            [~~(5)~~] (6) "Health care facility" has the same definition as in Section 26-21-2.

64            [~~(6)~~] (7) "Live birth" means the birth of a child who shows evidence of life after it is  
 65 entirely outside of the mother.

66            [~~(7)~~] (8) "Local registrar" means a person appointed under Subsection 26-2-3(2)(b).

67            [~~(8)~~] (9) "Physician" means a person licensed to practice as a physician or osteopath in  
 68 this state under Title 58, Chapter [~~12, Part 1 or Part 5~~] 67 or Chapter 68.

69            (10) "Presumptive father" means the father of a child conceived or born during a  
 70 marriage as defined in Section 30-1-17.2.

71            [~~(9)~~] (11) "Registration" or "register" means acceptance by the local or state registrar of  
 72 a certificate and incorporation of it into the permanent records of the state.

73            [~~(10)~~] (12) "State registrar" means the state registrar of vital records appointed under  
 74 Subsection 26-2-3(1)(e).

75            [~~(11)~~] (13) "Vital records" means registered certificates or reports of birth, death, fetal  
 76 death, marriage, divorce, dissolution of marriage, or annulment, amendments to any of these  
 77 registered certificates or reports, and other similar documents.

78            [~~(12)~~] (14) "Vital statistics" means the data derived from registered certificates and  
 79 reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce,  
 80 dissolution of marriage, or annulment.

81            Section 2. Section **26-2-5** is amended to read:

82            **26-2-5. Birth certificates -- Execution and registration requirements.**

83            (1) As used in this section, "birthing facility" means a general acute hospital or birthing  
 84 center as defined in Section 26-21-2.

85            (2) For each live birth occurring in the state, a certificate shall be filed with the local  
 86 registrar for the district in which the birth occurred within ten days following the birth. The  
 87 certificate shall be registered if it is completed and filed in accordance with this chapter.

88 (3) (a) For each live birth that occurs in a birthing facility, the administrator of the  
89 birthing facility, or his designee, shall obtain and enter the information required under this  
90 chapter on the certificate, securing the required signatures, and filing the certificate.

91 (b) (i) The date, time, place of birth, and required medical information shall be certified  
92 by the birthing facility administrator or his designee.

93 (ii) The attending physician or nurse midwife may sign the certificate, but if the  
94 attending physician or nurse midwife has not signed the certificate within seven days of the  
95 date of birth, the birthing facility administrator or his designee shall enter the attending  
96 physician's or nurse midwife's name and transmit the certificate to the local registrar.

97 (iii) The information on the certificate about the parents shall be provided and certified  
98 by the mother or father or, in their incapacity or absence, by a person with knowledge of the  
99 facts.

100 (4) (a) For live births that occur outside a birthing facility, the birth certificate shall be  
101 completed and filed by the physician, nurse, midwife, or other person primarily responsible for  
102 providing assistance to the mother at the birth. If there is no such person, either the  
103 presumptive or declarant father shall complete and file the certificate. In his absence, the  
104 mother shall complete and file the certificate, and in the event of her death or disability, the  
105 owner or operator of the premises where the birth occurred shall do so.

106 (b) The certificate shall be completed as fully as possible and shall include the date,  
107 time, and place of birth, the mother's name, and the signature of the person completing the  
108 certificate.

109 [~~4~~] (5) (a) For each live birth to an unmarried mother that occurs in a birthing facility,  
110 the administrator or director of that facility, or his designee, shall:

111 (i) provide the birth mother and [biological] declarant father, if present, with:

112 (A) a voluntary declaration of paternity form published by the state registrar;

113 (B) oral and written notice to the birth mother and [biological] declarant father of the  
114 alternatives to, the legal consequences of, and the rights and responsibilities that arise from  
115 signing the declaration; and

116 (C) the opportunity to sign the declaration;

117 (ii) witness the signature of a birth mother or [biological] declarant father in accordance  
118 with Section 78-45e-3 if the signature occurs at the hospital;

119 (iii) enter the ~~[biological]~~ declarant father's information on the original birth certificate,  
120 but only if the mother and biological father have signed a voluntary declaration of paternity or a  
121 court or administrative agency has issued an adjudication of paternity; and

122 (iv) file the completed declaration with the original birth certificate.

123 (b) If there is a presumptive father, the voluntary declaration will only be valid if the  
124 presumptive father also signs the voluntary declaration.

125 ~~[(b)]~~ (c) The state registrar shall file the information provided on the voluntary  
126 declaration of paternity form with the original birth certificate and may provide certified copies  
127 of the declaration of paternity as otherwise provided under Title 78, Chapter 45e, Voluntary  
128 Declaration of Paternity ~~[Act]~~.

129 ~~[(5) (a) For live births that occur outside a birthing facility, the certificate shall be~~  
130 ~~completed and filed by the physician, nurse, midwife, or other person primarily responsible for~~  
131 ~~providing assistance to the mother at the birth. If there is no such person, the father shall~~  
132 ~~complete and file the certificate. In his absence, the mother shall complete and file the~~  
133 ~~certificate, and in the event of her death or disability, the owner or operator of the premises~~  
134 ~~where the birth occurred shall do so.]~~

135 ~~[(b) The certificate shall be completed as fully as possible and shall include the date,~~  
136 ~~time, and place of birth, the mother's name, and the signature of the person completing the~~  
137 ~~certificate.]~~

138 (6) (a) The state registrar shall publish a form for the voluntary declaration of paternity,  
139 a description of the process for filing a voluntary declaration of paternity, and of the rights and  
140 responsibilities established or effected by that filing, in accordance with Title 78, Chapter 45e,  
141 Voluntary Declaration of Paternity ~~[Act]~~.

142 (b) Information regarding the form and services related to voluntary paternity  
143 establishment shall be made available to birthing facilities and to any other entity or individual  
144 upon request.

145 (7) The name of a declarant father may only be included on the birth certificate of a  
146 child of unmarried parents if:

147 (a) the mother and declarant father have signed a voluntary declaration of paternity; or

148 (b) a court or administrative agency has issued an adjudication of paternity.

149 (8) Voluntary declarations of paternity ~~[and]~~, adjudications of paternity by judicial or

150 administrative agencies, and voluntary rescissions of paternity shall be filed with and  
151 maintained by the state [~~registry~~] registrar for the purpose of comparing information with the  
152 state case registry maintained by the Office of Recovery Services pursuant to Section  
153 62A-11-104.

154 Section 3. Section **30-3-5** is amended to read:

155 **30-3-5. Disposition of property -- Maintenance and health care of parties and**  
156 **children -- Division of debts -- Court to have continuing jurisdiction -- Custody and**  
157 **parent-time -- Determination of alimony -- Nonmeritorious petition for modification.**

158 (1) When a decree of divorce is rendered, the court may include in it equitable orders  
159 relating to the children, property, debts or obligations, and parties. The court shall include the  
160 following in every decree of divorce:

161 (a) an order assigning responsibility for the payment of reasonable and necessary  
162 medical and dental expenses of the dependent children;

163 (b) if coverage is or becomes available at a reasonable cost, an order requiring the  
164 purchase and maintenance of appropriate health, hospital, and dental care insurance for the  
165 dependent children;

166 (c) pursuant to Section 15-4-6.5:

167 (i) an order specifying which party is responsible for the payment of joint debts,  
168 obligations, or liabilities of the parties contracted or incurred during marriage;

169 (ii) an order requiring the parties to notify respective creditors or obligees, regarding  
170 the court's division of debts, obligations, or liabilities and regarding the parties' separate,  
171 current addresses; and

172 (iii) provisions for the enforcement of these orders; and

173 (d) provisions for income withholding in accordance with Title 62A, Chapter 11,  
174 Recovery Services.

175 (2) The court may include, in an order determining child support, an order assigning  
176 financial responsibility for all or a portion of child care expenses incurred on behalf of the  
177 dependent children, necessitated by the employment or training of the custodial parent. If the  
178 court determines that the circumstances are appropriate and that the dependent children would  
179 be adequately cared for, it may include an order allowing the noncustodial parent to provide  
180 child care for the dependent children, necessitated by the employment or training of the

181 custodial parent.

182 (3) The court has continuing jurisdiction to make subsequent changes or new orders for  
183 the custody of the children and their support, maintenance, health, and dental care, and for  
184 distribution of the property and obligations for debts as is reasonable and necessary.

185 (4) Child support, custody, visitation, and other matters related to children born to the  
186 mother and father after entry of the decree of divorce may be added to the decree by  
187 modification.

188 [~~(4)~~] (5) (a) In determining parent-time rights of parents and visitation rights of  
189 grandparents and other members of the immediate family, the court shall consider the best  
190 interest of the child.

191 (b) Upon a specific finding by the court of the need for peace officer enforcement, the  
192 court may include in an order establishing a parent-time or visitation schedule a provision,  
193 among other things, authorizing any peace officer to enforce a court-ordered parent-time or  
194 visitation schedule entered under this chapter.

195 [~~(5)~~] (6) If a petition for modification of child custody or parent-time provisions of a  
196 court order is made and denied, the court shall order the petitioner to pay the reasonable  
197 attorneys' fees expended by the prevailing party in that action, if the court determines that the  
198 petition was without merit and not asserted or defended against in good faith.

199 [~~(6)~~] (7) If a petition alleges substantial noncompliance with a parent-time order by a  
200 parent, or a visitation order by a grandparent or other member of the immediate family pursuant  
201 to Section 78-32-12.2 where a visitation or parent-time right has been previously granted by the  
202 court, the court may award to the prevailing party costs, including actual attorney fees and  
203 court costs incurred by the prevailing party because of the other party's failure to provide or  
204 exercise court-ordered visitation or parent-time.

205 [~~(7)~~] (8) (a) The court shall consider at least the following factors in determining  
206 alimony:

207 (i) the financial condition and needs of the recipient spouse;

208 (ii) the recipient's earning capacity or ability to produce income;

209 (iii) the ability of the payor spouse to provide support;

210 (iv) the length of the marriage;

211 (v) whether the recipient spouse has custody of minor children requiring support;

212 (vi) whether the recipient spouse worked in a business owned or operated by the payor  
213 spouse; and

214 (vii) whether the recipient spouse directly contributed to any increase in the payor  
215 spouse's skill by paying for education received by the payor spouse or allowing the payor  
216 spouse to attend school during the marriage.

217 (b) The court may consider the fault of the parties in determining alimony.

218 (c) As a general rule, the court should look to the standard of living, existing at the  
219 time of separation, in determining alimony in accordance with Subsection [~~(7)~~] (8)(a).

220 However, the court shall consider all relevant facts and equitable principles and may, in its  
221 discretion, base alimony on the standard of living that existed at the time of trial. In marriages  
222 of short duration, when no children have been conceived or born during the marriage, the court  
223 may consider the standard of living that existed at the time of the marriage.

224 (d) The court may, under appropriate circumstances, attempt to equalize the parties'  
225 respective standards of living.

226 (e) When a marriage of long duration dissolves on the threshold of a major change in  
227 the income of one of the spouses due to the collective efforts of both, that change shall be  
228 considered in dividing the marital property and in determining the amount of alimony. If one  
229 spouse's earning capacity has been greatly enhanced through the efforts of both spouses during  
230 the marriage, the court may make a compensating adjustment in dividing the marital property  
231 and awarding alimony.

232 (f) In determining alimony when a marriage of short duration dissolves, and no  
233 children have been conceived or born during the marriage, the court may consider restoring  
234 each party to the condition which existed at the time of the marriage.

235 (g) (i) The court has continuing jurisdiction to make substantive changes and new  
236 orders regarding alimony based on a substantial material change in circumstances not  
237 foreseeable at the time of the divorce.

238 (ii) The court may not modify alimony or issue a new order for alimony to address  
239 needs of the recipient that did not exist at the time the decree was entered, unless the court  
240 finds extenuating circumstances that justify that action.

241 (iii) In determining alimony, the income of any subsequent spouse of the payor may not  
242 be considered, except as provided in this Subsection [~~(7)~~] (8).



243 (A) The court may consider the subsequent spouse's financial ability to share living  
244 expenses.

245 (B) The court may consider the income of a subsequent spouse if the court finds that  
246 the payor's improper conduct justifies that consideration.

247 (h) Alimony may not be ordered for a duration longer than the number of years that the  
248 marriage existed unless, at any time prior to termination of alimony, the court finds extenuating  
249 circumstances that justify the payment of alimony for a longer period of time.

250 [~~(8)~~] (9) Unless a decree of divorce specifically provides otherwise, any order of the  
251 court that a party pay alimony to a former spouse automatically terminates upon the remarriage  
252 or death of that former spouse. However, if the remarriage is annulled and found to be void ab  
253 initio, payment of alimony shall resume if the party paying alimony is made a party to the  
254 action of annulment and his rights are determined.

255 [~~(9)~~] (10) Any order of the court that a party pay alimony to a former spouse terminates  
256 upon establishment by the party paying alimony that the former spouse is cohabitating with  
257 another person.

258 Section 4. Section 30-3-10.2 is amended to read:

259 **30-3-10.2. Joint legal or physical custody order -- Factors for court determination**  
260 **-- Public assistance.**

261 (1) The court may order joint legal custody or joint physical custody or both if the  
262 parents have filed a parenting plan in accordance with Section 30-3-10.8 and it determines that  
263 joint legal custody or joint physical custody or both is in the best interest of the child.

264 (2) In determining whether the best interest of a child will be served by ordering joint  
265 legal or physical custody, the court shall consider the following factors:

266 (a) whether the physical, psychological, and emotional needs and development of the  
267 child will benefit from joint legal or physical custody;

268 (b) the ability of the parents to give first priority to the welfare of the child and reach  
269 shared decisions in the child's best interest;

270 (c) whether each parent is capable of encouraging and accepting a positive relationship  
271 between the child and the other parent;

272 (d) whether both parents participated in raising the child before the divorce;

273 (e) the geographical proximity of the homes of the parents;

274 (f) the preference of the child if the child is of sufficient age and capacity to reason so  
275 as to form an intelligent preference as to joint legal custody;

276 (g) the maturity of the parents and their willingness and ability to protect the child from  
277 conflict that may arise between the parents; and

278 (h) any other factors the court finds relevant.

279 (3) The determination of the best interest of the child shall be by a preponderance of  
280 the evidence.

281 (4) The court shall inform both parties that ~~that~~ an order for joint ~~legal~~ physical  
282 custody may preclude eligibility for cash assistance provided under Title 35A, Chapter 3,  
283 Employment Support Act ~~and~~.

284 ~~[(b) if cash assistance is required for the support of children of the parties at any time~~  
285 ~~subsequent to an order of joint legal custody, the order may be terminated under Section~~  
286 ~~30-3-10.4.]~~

287 (5) The court may order that where possible the parties attempt to settle future disputes  
288 by a dispute resolution method before seeking enforcement or modification of the terms and  
289 conditions of the order of joint legal custody or joint physical custody through litigation, except  
290 in emergency situations requiring ex parte orders to protect the child.

291 Section 5. Section **30-3-35.5** is amended to read:

292 **30-3-35.5. Minimum schedule for parent-time for children under five years of**  
293 **age.**

294 (1) The parent-time schedule in this section applies to children under five years old.

295 (2) If the parties do not agree to a parent-time schedule, the following schedule shall be  
296 considered the minimum parent-time to which the noncustodial parent and the child shall be  
297 entitled:

298 (a) for children under five months of age:

299 (i) six hours of parent-time per week to be specified by the court or the noncustodial  
300 parent preferably:

301 (A) divided into three parent-time periods; and

302 (B) in the custodial home, established child care setting, or other environment familiar  
303 to the child; and

304 (ii) two hours on holidays and in the years specified in Subsections 30-3-35(2)(f)

305 through (i) preferably in the custodial home, the established child care setting, or other  
306 environment familiar to the child;

307 (b) for children five months of age or older, but younger than ten months of age:

308 (i) nine hours of parent-time per week to be specified by the court or the noncustodial  
309 parent preferably:

310 (A) divided into three parent-time periods; and

311 (B) in the custodial home, established child care setting, or other environment familiar  
312 to the child; and

313 (ii) two hours on the holidays and in the years specified in Subsections 30-3-35(2)(f)  
314 through (i) preferably in the custodial home, the established child care setting, or other  
315 environment familiar to the child;

316 (c) for children ten months of age or older, but younger than 18 months of age:

317 (i) one eight hour visit per week to be specified by the noncustodial parent or court;

318 (ii) one three hour visit per week to be specified by the noncustodial parent or court;

319 (iii) eight hours on the holidays and in the years specified in Subsections ~~30-3-5~~  
320 30-3-35(2)(f) through (i); and

321 (iv) brief phone contact with the noncustodial parent at least two times per week;

322 (d) for children 18 months of age or older, but younger than three years of age:

323 (i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the  
324 noncustodial parent or court; however, if the child is being cared for during the day outside his  
325 regular place of residence, the noncustodial parent may, with advance notice to the custodial  
326 parent, pick up the child from the caregiver at an earlier time and return him to the custodial  
327 parent by 8:30 p.m.;

328 (ii) alternative weekends beginning on the first weekend after the entry of the decree  
329 from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;

330 (iii) parent-time on holidays as specified in Subsections 30-3-35(2)(c) through (i);

331 (iv) extended parent-time may be:

332 (A) two one-week periods, separated by at least four weeks, at the option of the  
333 noncustodial parent;

334 (B) one week shall be uninterrupted time for the noncustodial parent;

335 (C) the remaining week shall be subject to parent-time for the custodial parent

336 consistent with these guidelines; and

337 (D) the custodial parent shall have an identical one-week period of uninterrupted time  
338 for vacation; and

339 (v) brief phone contact with the noncustodial parent at least two times per week;

340 (e) for children three years of age or older, but younger than five years of age:

341 (i) one weekday evening between 5:30 p.m. and 8:30 p.m. to be specified by the  
342 noncustodial parent or court; however, if the child is being cared for during the day outside his  
343 regular place of residence, the noncustodial parent may, with advance notice to the custodial  
344 parent, pick up the child from the caregiver at an earlier time and return him to the custodial  
345 parent by 8:30 p.m.;

346 (ii) alternative weekends beginning on the first weekend after the entry of the decree  
347 from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;

348 (iii) parent-time on holidays as specified in Subsections 30-3-35(2)(c) through (i);

349 (iv) extended parent-time with the noncustodial parent may be:

350 (A) two two-week periods, separated by at least four weeks, at the option of the  
351 noncustodial parent;

352 (B) one two-week period shall be uninterrupted time for the noncustodial parent;

353 (C) the remaining two-week period shall be subject to parent-time for the custodial  
354 parent consistent with these guidelines; and

355 (D) the custodial parent shall have an identical two-week period of uninterrupted time  
356 for vacation; and

357 (v) brief phone contact with the noncustodial parent at least two times per week.

358 (3) A parent shall notify the other parent at least 30 days in advance of extended  
359 parent-time or vacation weeks.

360 (4) Telephone contact shall be at reasonable hours and for reasonable duration.

361 Section 6. Section **62A-4a-114** is amended to read:

362 **62A-4a-114. Financial reimbursement by parent or legal guardian.**

363 (1) The division shall seek reimbursement of funds it has expended on behalf of a child  
364 in the protective custody, temporary custody, or custody of the division, from the child's  
365 parents or legal guardians in accordance with an order for child support under Section  
366 78-3a-906.

367 ~~[(2) The parent or legal guardian is only responsible for child support with regard to a~~  
368 ~~case involving allegations of abuse or neglect against the parent or legal guardian if those~~  
369 ~~allegations are substantiated.]~~

370 (2) A parent or any other obligated person is not responsible for support for periods of  
371 time that a child is removed upon a finding by the Juvenile Court that there were insufficient  
372 grounds for that removal and that child is returned to the home of the parent, parents, or legal  
373 guardians based upon that finding.

374 (3) In the event that the Juvenile Court finds that there were insufficient grounds for  
375 the initial removal, but that the child is to remain in the custody of the state, the Juvenile Court  
376 shall order that the parents or any other obligated persons are responsible for support from the  
377 point at which it became improper to return the child to the home of his or her parent, parents,  
378 or legal guardians.

379 ~~[(3)]~~ (4) The attorney general shall represent the division in any legal action taken to  
380 enforce this section.

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

382 **62A-11-104. Duties of office.**

383 The office has the following duties:

384 (1) to provide child support services if:

385 (a) the office has received an application for child support services;

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

387 (c) a child lives out of the home in the protective custody, temporary custody, or  
388 custody or care of the state ~~[or another party for at least 30 days];~~

389 (2) to carry out the obligations of the department contained in this chapter and in Title  
390 78, Chapters 45, Uniform Civil Liability for Support Act, Chapter 45a, Uniform Act on  
391 Paternity, and Chapter 45f, Uniform Interstate Family Support Act, for the purpose of  
392 collecting child support;

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

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

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

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

401 (7) to implement income withholding for collection of child support in accordance with  
402 Part 4, Income Withholding in IV-D Cases, of this chapter;

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

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

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

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

412 (c) the distribution of collected amounts;

413 (d) the birth date of any child for whom the order requires the provision of support; and

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

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

417 (11) to determine whether an individual who has applied for or is receiving cash  
418 assistance or Medicaid is cooperating in good faith with the office as required by Section  
419 62A-11-307.2;

420 (12) to finance any costs incurred from collections, fees, General Fund appropriation,  
421 contracts, and federal financial participation; and

422 (13) to provide notice to a noncustodial parent in accordance with Section  
423 62A-11-304.4 of the opportunity to contest the accuracy of allegations by a custodial parent of  
424 nonpayment of past-due child support, prior to taking action against a noncustodial parent to  
425 collect the alleged past-due support.

426 Section 8. Section **62A-11-304.4** is amended to read:

427 **62A-11-304.4. Filing of location information -- Service of process.**

428 (1) (a) Upon the entry of an order in a proceeding to establish paternity or to establish,

429 modify, or enforce a support order, each party shall file identifying information and shall  
430 update that information as changes occur:

- 431 (i) with the court or administrative agency that conducted the proceeding; and
- 432 (ii) after October 1, 1998, with the state case registry.

433 (b) The identifying information required under Subsection (1)(a) shall include the  
434 person's social security number, driver's license number, residential and mailing addresses,  
435 telephone numbers, the name, address, and telephone number of employers, and any other data  
436 required by the United States Secretary of Health and Human Services.

437 (c) In any subsequent child support action involving the office or between the parties,  
438 state due process requirements for notice and service of process shall be satisfied as to a party  
439 upon:

- 440 (i) a sufficient showing that diligent effort has been made to ascertain the location of  
441 the party; and
- 442 (ii) delivery of notice to the most recent residential or employer address filed with the  
443 court, administrative agency, or state case registry under Subsection (1)(a).

444 (2) (a) The office shall provide individuals who are applying for or receiving services  
445 under this chapter or who are parties to cases in which services are being provided under this  
446 chapter:

- 447 (i) with notice of all proceedings in which support obligations might be established or  
448 modified; and
- 449 (ii) with a copy of any order establishing or modifying a child support obligation, or in  
450 the case of a petition for modification, a notice of determination that there should be no change  
451 in the amount of the child support award, within 14 days after issuance of such order or  
452 determination.

453 (b) Notwithstanding Subsection (2)(a)(ii), notice in the case of an interstate order shall  
454 be provided in accordance with Section 78-45f-614.

455 (3) Service of all notices and orders under this part shall be made in accordance with  
456 Title 63, Chapter 46b, Administrative Procedures Act, the Utah Rules of Civil Procedure, or  
457 this section.

458 (4) Consistent with Title 63, Chapter 2, Government Records Access and Management  
459 Act, the office shall adopt procedures to classify records to prohibit the unauthorized use or

460 disclosure of information relating to a proceeding to:

461 (a) establish paternity; or

462 (b) establish or enforce support.

463 (5) (a) The office shall, upon written request, provide location information available in  
464 its files on a custodial or noncustodial parent to the other party or the other party's legal counsel  
465 provided that:

466 (i) the party seeking the information produces a copy of the parent-time order signed by  
467 the court;

468 (ii) the information has not been safeguarded in accordance with Section 454 of the  
469 Social Security Act;

470 (iii) the party whose location is being sought has been afforded notice in accordance  
471 with this section [~~62A-11-304.4~~] of the opportunity to contest release of the information;

472 (iv) the party whose location is being sought has not provided the office with a copy of  
473 a protective order, a current court order prohibiting disclosure, a current court order limiting or  
474 prohibiting the requesting person's contact with the party or child whose location is being  
475 sought, a criminal order, an administrative order pursuant to Section 62A-4a-116.5, or  
476 documentation of a pending proceeding for any of the above; and

477 (v) there is no other state or federal law that would prohibit disclosure.

478 (b) "Location information" shall consist of the current residential address of the  
479 custodial or noncustodial parent and, if different and known to the office, the current residence  
480 of any children who are the subject of the parent-time order. If there is no current residential  
481 address available, the person's place of employment and any other location information shall be  
482 disclosed.

483 (c) For the purposes of this section, "reason to believe" under Section 454 of the Social  
484 Security Act means that the person seeking to safeguard information has provided to the office  
485 a copy of a protective order, current court order prohibiting disclosure, current court order  
486 prohibiting or limiting the requesting person's contact with the party or child whose location is  
487 being sought, or criminal order signed by a court of competent jurisdiction, an administrative  
488 order pursuant to Section 62A-4a-116.5, or documentation of a pending proceeding for any of  
489 the above.

490 (d) Neither the state, the department, the office nor its employees shall be liable for any



491 information released in accordance with this section.

492 Section 9. Section **62A-11-312.5** is amended to read:

493 **62A-11-312.5. Liens by operation of law and writs of garnishment.**

494 (1) Each payment or installment of child support is, on and after the date it is due, a  
495 judgment with the same attributes and effect of any judgment of a district court in accordance  
496 with Section 78-45-9.3 and for purposes of Section 78-22-1.

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

500 [~~(i) identifies this section;~~]

501 [~~(ii)~~] (i) specifies the amount of past-due support; and

502 [~~(iii)~~] (ii) complies with the procedural requirements of Section 78-22-1.

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

506 [~~(c) A lien under this Subsection (2) shall continue for a period of eight years from the  
507 time of docketing unless previously satisfied.~~]

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

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

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

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

519 Section 10. Section **70A-3-311** is amended to read:

520 **70A-3-311. Accord and satisfaction by use of instrument.**

521 (1) If a person against whom a claim is asserted proves that that person in good faith

522 tendered an instrument to the claimant as full satisfaction of the claim, the amount of the claim  
523 was unliquidated or subject to a bona fide dispute, and the claimant obtained payment of the  
524 instrument, the following subsections apply.

525 (2) Unless Subsection (3) applies, the claim is discharged if the person against whom  
526 the claim is asserted proves that the instrument or an accompanying written communication  
527 contained a conspicuous statement to the effect that the instrument was tendered as full  
528 satisfaction of the claim.

529 (3) Subject to Subsection (4), a claim is not discharged under Subsection (2) if either of  
530 the following applies:

531 (a) The claimant, if an organization, proves that:

532 (i) within a reasonable time before the tender, the claimant sent a conspicuous  
533 statement to the person against whom the claim is asserted, which states that communications  
534 concerning disputed debts, including an instrument tendered as full satisfaction of a debt, are to  
535 be sent to a designated person, office, or place; and

536 (ii) the instrument or accompanying communication was not received by that  
537 designated person, office, or place.

538 (b) The claimant, whether or not an organization, proves that within 90 days after  
539 payment of the instrument, the claimant tendered repayment of the amount of the instrument to  
540 the person against whom the claim is asserted. This Subsection (3)(b) does not apply if the  
541 claimant is an organization that sent a statement complying with Subsection (3)(a)(i).

542 (4) A claim is discharged if the person against whom the claim is asserted proves that  
543 within a reasonable time before collection of the instrument was initiated, the claimant, or an  
544 agent of the claimant having direct responsibility with respect to the disputed obligation, knew  
545 that the instrument was tendered in full satisfaction of the claim.

546 (5) Merely writing a statement on a check which declares that a child support  
547 obligation is paid in full is not sufficient to bind the recipient who endorses the check. Child  
548 support obligations are considered owing unless paid in full or otherwise ordered by a tribunal.

549 Section 11. Section **78-3a-118** is amended to read:

550 **78-3a-118. Adjudication of jurisdiction of juvenile court -- Disposition of cases --**  
551 **Enumeration of possible court orders -- Considerations of court -- Obtaining DNA**  
552 **sample.**

553 (1) (a) When a minor is found to come within the provisions of Section 78-3a-104, the  
554 court shall so adjudicate. The court shall make a finding of the facts upon which it bases its  
555 jurisdiction over the minor. However, in cases within the provisions of Subsection  
556 78-3a-104(1), findings of fact are not necessary.

557 (b) If the court adjudicates a minor for a crime of violence or an offense in violation of  
558 Title 76, Chapter 10, Part 5, Weapons, it shall order that notice of the adjudication be provided  
559 to the school superintendent of the district in which the minor resides or attends school. Notice  
560 shall be made to the district superintendent within three days of the adjudication and shall  
561 include the specific offenses for which the minor was adjudicated.

562 (2) Upon adjudication the court may make the following dispositions by court order:

563 (a) (i) The court may place the minor on probation or under protective supervision in  
564 the minor's own home and upon conditions determined by the court, including compensatory  
565 service as provided in Section 78-11-20.7.

566 (ii) The court may place the minor in state supervision with the probation department  
567 of the court, under the legal custody of:

568 (A) his parent or guardian;

569 (B) the Division of Youth Corrections; or

570 (C) the Division of Child and Family Services.

571 (iii) If the court orders probation or state supervision, the court shall direct that notice  
572 of its order be provided to designated persons in the local law enforcement agency and the  
573 school or transferee school, if applicable, which the minor attends. The designated persons  
574 may receive the information for purposes of the minor's supervision and student safety.

575 (iv) Any employee of the local law enforcement agency and the school which the  
576 minor attends who discloses the court's order of probation is not:

577 (A) civilly liable except when the disclosure constitutes fraud or malice as provided in  
578 Section 63-30-4; and

579 (B) civilly or criminally liable except when the disclosure constitutes a knowing  
580 violation of Section 63-2-801.

581 (b) The court may place the minor in the legal custody of a relative or other suitable  
582 person, with or without probation or protective supervision, but the juvenile court may not  
583 assume the function of developing foster home services.

584 (c) (i) The court may:

585 (A) vest legal custody of the minor in the Division of Child and Family Services,  
586 Division of Youth Corrections, or the Division of Substance Abuse and Mental Health; and

587 (B) order the Department of Human Services to provide dispositional  
588 recommendations and services.

589 (ii) For minors who may qualify for services from two or more divisions within the  
590 Department of Human Services, the court may vest legal custody with the department.

591 (iii) (A) Minors who are committed to the custody of the Division of Child and Family  
592 Services on grounds other than abuse or neglect are subject to the provisions of Title 78,  
593 Chapter 3a, Part 3A, Minors in Custody on Grounds Other Than Abuse or Neglect, and Title  
594 62A, Chapter 4a, Part 2A, Minors in Custody on Grounds Other Than Abuse or Neglect.

595 (B) Prior to the court entering an order to place a minor in the custody of the Division  
596 of Child and Family Services on grounds other than abuse or neglect, the court shall provide  
597 the division with notice of the hearing no later than five days before the time specified for the  
598 hearing so the division may attend the hearing.

599 (C) Prior to committing a minor to the custody of the Division of Child and Family  
600 Services, the court shall make a finding as to what reasonable efforts have been attempted to  
601 prevent the minor's removal from his home.

602 (d) (i) The court may commit the minor to the Division of Youth Corrections for secure  
603 confinement.

604 (ii) A minor under the jurisdiction of the court solely on the ground of abuse, neglect,  
605 or dependency under Subsection 78-3a-104(1)(c) may not be committed to the Division of  
606 Youth Corrections.

607 (e) The court may commit the minor, subject to the court retaining continuing  
608 jurisdiction over him, to the temporary custody of the Division of Youth Corrections for  
609 observation and evaluation for a period not to exceed 45 days, which period may be extended  
610 up to 15 days at the request of the director of the Division of Youth Corrections.

611 (f) (i) The court may commit the minor to a place of detention or an alternative to  
612 detention for a period not to exceed 30 days subject to the court retaining continuing  
613 jurisdiction over the minor. This commitment may be stayed or suspended upon conditions  
614 ordered by the court.

615 (ii) This Subsection (2)(f) applies only to those minors adjudicated for:

616 (A) an act which if committed by an adult would be a criminal offense; or

617 (B) contempt of court under Section 78-3a-901.

618 (g) The court may vest legal custody of an abused, neglected, or dependent minor in  
619 the Division of Child and Family Services or any other appropriate person in accordance with  
620 the requirements and procedures of Title 78, Chapter 3a, Part 3, Abuse, Neglect, and  
621 Dependency Proceedings.

622 (h) The court may place the minor on a ranch or forestry camp, or similar facility for  
623 care and also for work, if possible, if the person, agency, or association operating the facility  
624 has been approved or has otherwise complied with all applicable state and local laws. A minor  
625 placed in a forestry camp or similar facility may be required to work on fire prevention,  
626 forestation and reforestation, recreational works, forest roads, and on other works on or off the  
627 grounds of the facility and may be paid wages, subject to the approval of and under conditions  
628 set by the court.

629 (i) The court may order the minor to repair, replace, or otherwise make restitution for  
630 damage or loss caused by the minor's wrongful act, including costs of treatment as stated in  
631 Section 78-3a-318 and impose fines in limited amounts. If a minor has been returned to this  
632 state under the Interstate Compact on Juveniles, the court may order the minor to make  
633 restitution for costs expended by any governmental entity for the return.

634 (j) The court may issue orders necessary for the collection of restitution and fines  
635 ordered by the court, including garnishments, wage withholdings, and executions.

636 (k) (i) The court may through its probation department encourage the development of  
637 employment or work programs to enable minors to fulfill their obligations under Subsection  
638 (2)(i) and for other purposes considered desirable by the court.

639 (ii) Consistent with the order of the court, the probation officer may permit the minor  
640 found to be within the jurisdiction of the court to participate in a program of work restitution or  
641 compensatory service in lieu of paying part or all of the fine imposed by the court.

642 (l) (i) In violations of traffic laws within the court's jurisdiction, the court may, in  
643 addition to any other disposition authorized by this section:

644 (A) restrain the minor from driving for periods of time the court considers necessary;  
645 and

646 (B) take possession of the minor's driver license.

647 (ii) The court may enter any other disposition under Subsection (2)(1)(i); however, the  
648 suspension of driving privileges for an offense under Section 78-3a-506 are governed only by  
649 Section 78-3a-506.

650 (m) (i) When a minor is found within the jurisdiction of the juvenile court under  
651 Section 78-3a-104 because of violating Section 58-37-8, Title 58, Chapter 37a, Utah Drug  
652 Paraphernalia Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, the court  
653 shall, in addition to any fines or fees otherwise imposed, order that the minor perform a  
654 minimum of 20 hours, but no more than 100 hours, of compensatory service. Satisfactory  
655 completion of an approved substance abuse prevention or treatment program may be credited  
656 by the court as compensatory service hours.

657 (ii) When a minor is found within the jurisdiction of the juvenile court under Section  
658 78-3a-104 because of a violation of Section 32A-12-209 or Subsection 76-9-701(1), the court  
659 may, upon the first adjudication, and shall, upon a second or subsequent adjudication, order  
660 that the minor perform a minimum of 20 hours, but no more than 100 hours of compensatory  
661 service, in addition to any fines or fees otherwise imposed. Satisfactory completion of an  
662 approved substance abuse prevention or treatment program may be credited by the court as  
663 compensatory service hours.

664 (n) The court may order that the minor be examined or treated by a physician, surgeon,  
665 psychiatrist, or psychologist or that he receive other special care. For these purposes the court  
666 may place the minor in a hospital or other suitable facility.

667 (o) (i) The court may appoint a guardian for the minor if it appears necessary in the  
668 interest of the minor, and may appoint as guardian a public or private institution or agency in  
669 which legal custody of the minor is vested.

670 (ii) In placing a minor under the guardianship or legal custody of an individual or of a  
671 private agency or institution, the court shall give primary consideration to the welfare of the  
672 minor. When practicable, the court may take into consideration the religious preferences of the  
673 minor and of the minor's parents.

674 (p) (i) In support of a decree under Section 78-3a-104, the court may order reasonable  
675 conditions to be complied with by the parents or guardian, the minor, the minor's custodian, or  
676 any other person who has been made a party to the proceedings. Conditions may include:

- 677 (A) parent-time by the parents or one parent;
- 678 (B) restrictions on the minor's associates;
- 679 (C) restrictions on the minor's occupation and other activities; and
- 680 (D) requirements to be observed by the parents or custodian.
- 681 (ii) A minor whose parents or guardians successfully complete a family or other
- 682 counseling program may be credited by the court for detention, confinement, or probation time.
- 683 (q) The court may order the minor to be placed in the legal custody of the Division of
- 684 Substance Abuse and Mental Health or committed to the physical custody of a local mental
- 685 health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15,
- 686 Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental
- 687 Health.
- 688 (r) (i) The court may make an order committing a minor within its jurisdiction to the
- 689 Utah State Developmental Center if the minor has mental retardation in accordance with the
- 690 provisions of Title 62A, Chapter 5, Part 3, Admission to Mental Retardation Facility.
- 691 (ii) The court shall follow the procedure applicable in the district courts with respect to
- 692 judicial commitments to the Utah State Developmental Center when ordering a commitment
- 693 under Subsection (2)(r)(i).
- 694 (s) The court may terminate all parental rights upon a finding of compliance with the
- 695 provisions of Title 78, Chapter 3a, Part 4, Termination of Parental Rights Act.
- 696 (t) The court may make any other reasonable orders for the best interest of the minor or
- 697 as required for the protection of the public, except that a person younger than 18 years of age
- 698 may not be committed to jail or prison.
- 699 (u) The court may combine the dispositions listed in this section if they are compatible.
- 700 (v) Before depriving any parent of custody, the court shall give due consideration to the
- 701 rights of parents concerning their minor. The court may transfer custody of a minor to another
- 702 person, agency, or institution in accordance with the requirements and procedures of Title 78,
- 703 Chapter 3a, Part 3, Abuse, Neglect, and Dependency Proceedings.
- 704 (w) Except as provided in Subsection (2)(y)(i), an order under this section for
- 705 probation or placement of a minor with an individual or an agency shall include a date certain
- 706 for a review of the case by the court. A new date shall be set upon each review.
- 707 (x) In reviewing foster home placements, special attention shall be given to making

708 adoptable minors available for adoption without delay.

709 (y) (i) The juvenile court may enter an order of permanent custody and guardianship  
710 with a relative or individual of a minor where the court has previously acquired jurisdiction as  
711 a result of an adjudication of abuse, neglect, or dependency, excluding cases arising under  
712 Subsection 78-3a-105(4). The juvenile court may enter an order for child support on behalf of  
713 the minor child against the natural or adoptive parents of the child.

714 (ii) Orders under Subsection (2)(y)(i):

715 (A) shall remain in effect until the minor reaches majority;

716 (B) are not subject to review under Section 78-3a-119; and

717 (C) may be modified by petition or motion as provided in Section 78-3a-903.

718 (iii) Orders permanently terminating the rights of a parent, guardian, or custodian and  
719 permanent orders of custody and guardianship do not expire with a termination of jurisdiction  
720 of the juvenile court.

721 (3) In addition to the dispositions described in Subsection (2), when a minor comes  
722 within the court's jurisdiction he may be given a choice by the court to serve in the National  
723 Guard in lieu of other sanctions, provided:

724 (a) the minor meets the current entrance qualifications for service in the National  
725 Guard as determined by a recruiter, whose determination is final;

726 (b) the minor is not under the jurisdiction of the court for any act that:

727 (i) would be a felony if committed by an adult;

728 (ii) is a violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

729 (iii) was committed with a weapon; and

730 (c) the court retains jurisdiction over the minor under conditions set by the court and  
731 agreed upon by the recruiter or the unit commander to which the minor is eventually assigned.

732 (4) (a) A DNA specimen shall be obtained from a minor who is under the jurisdiction of  
733 the court as described in Subsection 53-10-403(3). The specimen shall be obtained by  
734 designated employees of the court or, if the minor is in the legal custody of the Division of  
735 Youth Corrections, then by designated employees of the division under Subsection  
736 53-10-404(5)(b).

737 (b) The responsible agency shall ensure that employees designated to collect the saliva  
738 DNA specimens receive appropriate training and that the specimens are obtained in accordance



739 with accepted protocol.

740 (c) Reimbursements paid under Subsection 53-10-404(2)(a) shall be placed in the DNA  
741 Specimen Restricted Account created in Section 53-10-407.

742 (d) Payment of the reimbursement is second in priority to payments the minor is  
743 ordered to make for restitution under this section and treatment under Section 78-3a-318.

744 Section 12. Section **78-3a-906** is amended to read:

745 **78-3a-906. Child support obligation when custody of a minor is vested in an**  
746 **individual or institution.**

747 (1) When legal custody of a minor is vested by the court in a secure youth corrections  
748 facility or any other state department, division, or agency other than his parents, or if the  
749 guardianship of the child has been granted to another party and an agreement for a guardianship  
750 subsidy has been signed by the guardian, the court shall order the parents, a parent, or any other  
751 obligated person to pay child support for each month the child is in custody. In the same  
752 proceeding the court shall inform the parents, a parent, or any other obligated person, verbally  
753 and in writing, of the requirement to pay child support in accordance with Title 78, Chapter 45,  
754 Uniform Civil Liability for Support Act.

755 (2) If legal custody of a minor is vested by the court in a secure youth corrections  
756 facility, or any other state department, division, or agency, the court may refer the  
757 establishment of a child support order to the Office of Recovery Services. The referral shall be  
758 sent to the Office of Recovery Services within three working days of the hearing. Support  
759 obligation amounts shall be set by the Office of Recovery Services in accordance with Title 78,  
760 Chapter 45, Uniform Civil Liability for Support Act.

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

768 (4) If a child is returned home and legal custody is subsequently vested by the court in  
769 a secure youth corrections facility or any other state department, division, or agency other than

770 his parents, the liability for support shall accrue from the date the minor is subsequently  
771 removed from the home, including time spent in detention or sheltered care.

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

775 (b) Notwithstanding Subsection (5)(a), the court may order the liability of support to  
776 begin to accrue from the date of the proceeding referenced in Subsection (1) if:

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

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

783 (c) For purposes of Subsection (5)(b)(ii), the Office of Recovery Services shall be  
784 presumed to have taken reasonable steps if the office:

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

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

791 (6) In collecting arrears, the Office of Recovery Services shall comply with Section  
792 62A-11-320 in setting a payment schedule or demanding payment in full.

793 (7) Unless otherwise ordered, the parents or other person shall pay the child support to  
794 the Office of Recovery Services. The clerk of the court, the Office of Recovery Services, or the  
795 Department of Human Services and its divisions shall have authority to receive periodic  
796 payments for the care and maintenance of the minor, such as Social Security payments or  
797 railroad retirement payments made in the name of or for the benefit of the minor.

798 (8) No court order under this section against a parent or other person shall be entered,  
799 unless notice of hearing has been served within the state, a voluntary appearance is made, or a  
800 waiver of service given. The notice shall specify that a hearing with respect to the financial

801 support of the minor will be held.

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

804 (10) (a) Subsections [~~(2)~~] (3) through (9) shall not apply if legal custody of a minor is  
805 vested by the court in an individual.

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

811 Section 13. Section **78-22-1** is amended to read:

812 **78-22-1. Duration of judgment -- Judgment as a lien upon real property --**  
813 **Abstract of judgment -- Small claims judgment not a lien -- Appeal of judgment -- Child**  
814 **support orders.**

815 (1) [~~Except as provided in Subsection (6), judgments~~] Judgments shall continue for  
816 eight years from the date of entry in a court unless previously satisfied or unless enforcement of  
817 the judgment is stayed in accordance with law.

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

822 (3) An abstract of judgment issued by the court in which the judgment is entered may  
823 be filed in any court of this state and shall have the same force and effect as a judgment entered  
824 in that court.

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

828 (5) (a) If any judgment is appealed, upon deposit, with the court where the notice of  
829 appeal is filed, of cash or other security in a form and amount considered sufficient by the court  
830 that rendered the judgment to secure the full amount of the judgment, together with ongoing  
831 interest and any other anticipated damages or costs, including attorney's fees and costs on

832 appeal, the lien created by the judgment shall be terminated as provided in Subsection (5)(b).

833 (b) Upon the deposit of sufficient security as provided in Subsection (5)(a), the court  
834 shall enter an order terminating the lien created by the judgment and granting the judgment  
835 creditor a perfected lien in the deposited security as of the date of the original judgment.

836 (6) (a) [~~Enforcement of a~~] A child support order [~~may be pursued at any time~~] or a sum  
837 certain judgment for past due support may be enforced:

838 (i) within four years after the date the youngest child reaches majority[-]; or

839 (ii) eight years from the date of entry of the sum certain judgment entered by a tribunal.

840 (b) The longer period of duration shall apply in every order.

841 (c) A sum certain judgment may be renewed to extend the duration.

842 (7) (a) After July 1, 2002, a judgment entered by a district court or a justice court in the  
843 state becomes a lien upon real property if:

844 (i) the judgment or an abstract of the judgment containing the information identifying  
845 the judgment debtor as described in Subsection 78-22-1.5(4) is recorded in the office of the  
846 county recorder; or

847 (ii) the judgment or an abstract of the judgment and a separate information statement of  
848 the judgment creditor as described in Subsection 78-22-1.5(5) is recorded in the office of the  
849 county recorder.

850 (b) The judgment shall run from the date of entry by the district court or justice court.

851 (c) The real property subject to the lien includes all the real property of the judgment  
852 debtor:

853 (i) in the county in which the recording under Subsection (7)(a)(i) or (ii) occurs; and

854 (ii) owned or acquired at any time by the judgment debtor during the time the judgment  
855 is effective.

856 (d) State agencies are exempt from the recording requirement of Subsection (7)(a).

857 (8) (a) A judgment referred to in Subsection (7) shall be entered under the name of the  
858 judgment debtor in the judgment index in the office of the county recorder as required in  
859 Section 17-21-6.

860 (b) A judgment containing a legal description shall also be abstracted in the appropriate  
861 tract index in the office of the county recorder.

862 Section 14. Section **78-45-7.2** is amended to read:

863 **78-45-7.2. Application of guidelines -- Rebuttal.**

864 (1) The guidelines apply to any judicial or administrative order establishing or  
865 modifying an award of child support entered on or after July 1, 1989.

866 (2) (a) The child support guidelines shall be applied as a rebuttable presumption in  
867 establishing or modifying the amount of temporary or permanent child support.

868 (b) The rebuttable presumption means the provisions and considerations required by  
869 the guidelines, the award amounts resulting from the application of the guidelines, and the use  
870 of worksheets consistent with these guidelines are presumed to be correct, unless rebutted  
871 under the provisions of this section.

872 (3) A written finding or specific finding on the record supporting the conclusion that  
873 complying with a provision of the guidelines or ordering an award amount resulting from use  
874 of the guidelines would be unjust, inappropriate, or not in the best interest of a child in a  
875 particular case is sufficient to rebut the presumption in that case. If an order rebuts the  
876 presumption through findings, it is considered a deviated order.

877 (4) The following shall be considered deviations from the guidelines, if:

878 (a) the order includes a written finding that it is a nonguidelines order;

879 (b) the guidelines worksheet has the box checked for a deviation and has an  
880 explanation as to the reason; or

881 (c) the deviation was made because there were more children than provided for in the  
882 guidelines table.

883 (5) If the amount in the order and the amount on the guidelines worksheet differ, but  
884 the difference is less than \$10, the order shall not be considered deviated and the incomes listed  
885 on the worksheet may be used in adjusting support for emancipation.

886 [~~4~~] (6) (a) Natural or adoptive children of either parent who live in the home of that  
887 parent and are not children in common to both parties may at the option of either party be taken  
888 into account under the guidelines in setting or modifying a child support award, as provided in  
889 Subsection [~~5~~] (7). Credit may not be given if:

890 (i) by giving credit to the obligor, children for whom a prior support order exists would  
891 have their child support reduced; or

892 (ii) by giving credit to the obligee for a present family, the obligation of the obligor  
893 would increase.

894 (b) Additional worksheets shall be prepared that compute the obligations of the  
895 respective parents for the additional children. The obligations shall then be subtracted from the  
896 appropriate parent's income before determining the award in the instant case.

897 ~~[(5)] (7)~~ In a proceeding to modify an existing award, consideration of natural or  
898 adoptive children ~~[other than those]~~ born after entry of the order and who are not in common to  
899 both parties may ~~[be applied to mitigate an increase in the award but may not be applied to~~  
900 ~~justify a decrease in the award.]~~ not be applied:

901 (a) for the benefit of the obligee if the credit would increase the support obligation of  
902 the obligor from the most recent order; or

903 (b) for the benefit of the obligor if the amount of support received by the obligee would  
904 be decreased from the most recent order.

905 ~~[(6)] (8)~~ (a) If a child support order has not been issued or modified within the previous  
906 three years, a parent, legal guardian, or the office may petition the court to adjust the amount of  
907 a child support order.

908 (b) Upon receiving a petition under Subsection ~~[(6)] (8)~~(a), the court shall, taking into  
909 account the best interests of the child, determine whether there is a difference between the  
910 amount ordered and the amount that would be required under the guidelines. If there is a  
911 difference of 10% or more and the difference is not of a temporary nature, the court shall adjust  
912 the amount to that which is provided for in the guidelines.

913 (c) A showing of a substantial change in circumstances is not necessary for an  
914 adjustment under Subsection ~~[(6)] (8)~~(b).

915 ~~[(7)] (9)~~ (a) A parent, legal guardian, or the office may at any time petition the court to  
916 adjust the amount of a child support order if there has been a substantial change in  
917 circumstances.

918 (b) For purposes of Subsection ~~[(7)] (9)~~(a), a substantial change in circumstances may  
919 include:

- 920 (i) material changes in custody;
- 921 (ii) material changes in the relative wealth or assets of the parties;
- 922 (iii) material changes of 30% or more in the income of a parent;
- 923 (iv) material changes in the ability of a parent to earn;
- 924 (v) material changes in the medical needs of the child; and

925 (vi) material changes in the legal responsibilities of either parent for the support of  
926 others.

927 (c) Upon receiving a petition under Subsection [(7)] (9)(a), the court shall, taking into  
928 account the best interests of the child, determine whether a substantial change has occurred. If  
929 it has, the court shall then determine whether the change results in a difference of 15% or more  
930 between the amount of child support ordered and the amount that would be required under the  
931 guidelines. If there is such a difference and the difference is not of a temporary nature, the  
932 court shall adjust the amount of child support ordered to that which is provided for in the  
933 guidelines.

934 [(8)] (10) Notice of the opportunity to adjust a support order under Subsections [(6)]  
935 (8) and [(7)] (9) shall be included in each child support order issued or modified after July 1,  
936 1997.

937 Section 15. Section **78-45-7.10** is amended to read:

938 **78-45-7.10. Adjustment when child becomes emancipated.**

939 (1) When a child becomes 18 years of age, or has graduated from high school during  
940 the child's normal and expected year of graduation, whichever occurs later, the base child  
941 support award is automatically adjusted to reflect the base combined child support obligation  
942 shown in the table for the remaining number of children due child support, unless otherwise  
943 provided in the child support order.

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

946 [~~(3) The income used for purposes of adjusting the support shall be the income of the  
947 parties at the time of the entry of the original order. If income was not listed in the findings or  
948 order and worksheets were not submitted, the parties may submit tax returns or other  
949 verification of the income.]~~

950 (3) If the incomes of the parties are not specified in the order or the worksheets, the  
951 information regarding the incomes is not consistent, or the order deviates from the guidelines,  
952 automatic adjustment of the order does not apply and the order will continue until modified by  
953 the issuing tribunal. If the order is deviated and the parties subsequently obtain a judicial order  
954 that adjusts the support back to the date of the emancipation of the child, the Office of  
955 Recovery Services may not be required to repay any difference in the support collected during

956 the interim.

957 Section 16. Section **78-45-7.11** is amended to read:

958 **78-45-7.11. Reduction for extended parent-time.**

959 (1) (a) [The child support order shall provide that the] The base child support award  
960 shall be:

961 (i) reduced by 50% for each child for time periods during which the child is with the  
962 noncustodial parent by order of the court or by written agreement of the parties for at least 25  
963 of any 30 consecutive days[-] of extended parent-time; or

964 (ii) 25% for each child for time periods during which the child is with the noncustodial  
965 parent by order of the court, or by written agreement of the parties for at least 14 of any 30  
966 consecutive days of extended parent-time.

967 (b) Subsection (1)(a) does not apply in cases in which there is a joint custody order.

968 (2) If the dependent child is a client of cash assistance provided under Title 35A,  
969 Chapter 3, Part 3, Family Employment Program, any agreement by the parties for reduction of  
970 child support during extended parent-time shall be approved by the administrative agency.  
971 [However, normal]

972 (3) Normal parent-time and holiday visits to the custodial parent shall not be  
973 considered [an interruption of the consecutive day requirement] extended parent-time.

974 (4) For cases receiving IV-D child support services in accordance with Title 62A,  
975 Chapter 11, Parts 1, 3, and 4, to receive the adjustment the noncustodial parent shall provide  
976 written documentation of the extended parent-time schedule, including the beginning and  
977 ending dates, to the Office of Recovery Services in the form of either a court order or a  
978 voluntary written agreement between the parties.

979 (5) If the noncustodial parent complies with Subsection (4), owes no past-due support,  
980 and pays the full, unadjusted amount of current child support due for the month of scheduled  
981 extended parent-time and the following month, the Office of Recovery Services shall refund  
982 the difference from the child support due to the custodial parent or the state, between the full  
983 amount of current child support received during the month of extended parent-time and the  
984 adjusted amount of current child support due:

985 (a) from current support received in the month following the month of scheduled  
986 extended parent-time; or



987 (b) from current support received in the month following the month written  
988 documentation of the scheduled extended parent-time is provided to the office, whichever  
989 occurs later.

990 (6) If the noncustodial parent complies with Subsection (4), owes past-due support, and  
991 pays the full, unadjusted amount of current child support due for the month of scheduled  
992 extended parent-time, the Office of Recovery Services shall apply the difference, from the child  
993 support due to the custodial parent or the state, between the full amount of current child  
994 support received during the month of extended parent-time and the adjusted amount of current  
995 child support due, to the past-due support obligation in the case.

996 (7) For cases not receiving IV-D child support services in accordance with Title 62A,  
997 Chapter 11, Parts 1, 3, and 4, any potential adjustment of the support payment during the  
998 month of extended visitation or any refund that may be due to the noncustodial parent from the  
999 custodial parent, shall be resolved between the parents or through the court without  
1000 involvement by the Office of Recovery Services.

1001 [~~(2)~~] (8) For purposes of this section the per child amount to which the abatement  
1002 applies shall be calculated by dividing the base child support award by the number of children  
1003 included in the award.

1004 [~~(3)~~] (9) The reduction in this section does not apply to parents with joint physical  
1005 custody obligations calculated in accordance with Section 78-45-7.9.

1006 Section 17. Section **78-45-7.15** is amended to read:

1007 **78-45-7.15. Medical expenses.**

1008 (1) The court shall order that insurance for the medical expenses of the minor children  
1009 be provided by a parent if it is available at a reasonable cost.

1010 (2) In determining which parent shall be ordered to maintain insurance for medical  
1011 expenses, the court or administrative agency may consider the:

- 1012 (a) reasonableness of the cost;  
1013 (b) availability of a group insurance policy;  
1014 (c) coverage of the policy; and  
1015 (d) preference of the custodial parent.

1016 (3) The order shall require each parent to share equally the out-of-pocket costs of the  
1017 premium actually paid by a parent for the children's portion of insurance.

1018 (4) The parent who provides the insurance coverage may receive credit against the base  
1019 child support award or recover the other parent's share of the children's portion of the premium.  
1020 In cases in which the parent does not have insurance but another member of the parent's  
1021 household provides insurance coverage for the children, the parent may receive credit against  
1022 the base child support award or recover the other parent's share of the children's portion of the  
1023 premium.

1024 [~~(4)~~] (5) The children's portion of the premium is a per capita share of the premium  
1025 actually paid. The premium expense for the children shall be calculated by dividing the  
1026 premium amount by the number of persons covered under the policy and multiplying the result  
1027 by the number of children in the instant case.

1028 [~~(5)~~] (6) The order shall require each parent to share equally all reasonable and  
1029 necessary uninsured medical expenses, including deductibles and copayments, incurred for the  
1030 dependent children.

1031 [~~(6)~~] (7) The parent ordered to maintain insurance shall provide verification of  
1032 coverage to the other parent, or to the Office of Recovery Services under Title IV of the Social  
1033 Security Act, 42 U.S.C. Section 601 et seq., upon initial enrollment of the dependent children,  
1034 and thereafter on or before January 2 of each calendar year. The parent shall notify the other  
1035 parent, or the Office of Recovery Services under Title IV of the Social Security Act, 42 U.S.C.  
1036 Section 601 et seq., of any change of insurance carrier, premium, or benefits within 30 calendar  
1037 days of the date he first knew or should have known of the change.

1038 [~~(7)~~] (8) A parent who incurs medical expenses shall provide written verification of the  
1039 cost and payment of medical expenses to the other parent within 30 days of payment.

1040 [~~(8)~~] (9) In addition to any other sanctions provided by the court, a parent incurring  
1041 medical expenses may be denied the right to receive credit for the expenses or to recover the  
1042 other parent's share of the expenses if that parent fails to comply with Subsections [~~(6)~~] (7) and  
1043 [~~(7)~~] (8).

1044 Section 18. Section **78-45-9** is amended to read:

1045 **78-45-9. Enforcement of right of support.**

1046 (1) (a) The obligee may enforce his right of support against the obligor. The office  
1047 may proceed pursuant to this chapter or any other applicable statute on behalf of:

1048 (i) the Department of Human Services;

1049 (ii) any other department or agency of this state that provides public assistance, as  
1050 defined by Subsection 62A-11-303 (3), to enforce the right to recover public assistance; or

1051 (iii) the obligee, to enforce the obligee's right of support against the obligor.

1052 (b) Whenever any court action is commenced by the office to enforce payment of the  
1053 obligor's support obligation, the attorney general or the county attorney of the county of  
1054 residence of the obligee shall represent the office.

1055 (2) (a) A person may not commence an action, file a pleading, or submit a written  
1056 stipulation to the court, without complying with Subsection (2)(b), if the purpose or effect of  
1057 the action, pleading, or stipulation is to:

1058 (i) establish paternity;

1059 (ii) establish or modify a support obligation;

1060 (iii) change the court-ordered manner of payment of support; ~~or~~

1061 (iv) recover support due or owing~~[-]; or~~

1062 (v) appeal issues regarding child support laws.

1063 (b) (i) When taking an action described in Subsection (2)(a), a person must file an  
1064 affidavit with the court at the time the action is commenced, the pleading is filed, or the  
1065 stipulation is submitted stating whether child support services have been or are being provided  
1066 under Part IV of the Social Security Act, 42 U.S.C., Section 601 et seq., on behalf of a child  
1067 who is a subject of the action, pleading, or stipulation.

1068 (ii) If child support services have been or are being provided, under Part IV of the  
1069 Social Security Act, 42 U.S.C., Section 601 et seq., the person shall mail a copy of the affidavit  
1070 and a copy of the pleading or stipulation to the Office of the Attorney General, Child Support  
1071 Division.

1072 (iii) If notice is not given in accordance with this Subsection (2), the office is not  
1073 bound by any decision, judgment, agreement, or compromise rendered in the action. For  
1074 purposes of appeals, service must be made on the Office of the Director for the Office of  
1075 Recovery Services.

1076 (c) If IV-D services have been or are being provided, that person shall join the office as  
1077 a party to the action, or mail or deliver a written request to the Office of the Attorney General,  
1078 Child Support Division asking the office to join as a party to the action. A copy of that request,  
1079 along with proof of service, shall be filed with the court. The office shall be represented as

1080 provided in Subsection (1)(b).

1081 (3) Neither the attorney general nor the county attorney represents or has an  
1082 attorney-client relationship with the obligee or the obligor in carrying out the duties under this  
1083 chapter.

1084 Section 19. Section **78-45-9.3** is amended to read:

1085 **78-45-9.3. Payment under child support order -- Judgment.**

1086 (1) All monthly payments of child support shall be due on the 1st day of each month  
1087 for purposes of child support services pursuant to Title 62A, Chapter 11, Part 3, income  
1088 withholding services pursuant to Part 4, and income withholding procedures pursuant to Part 5.

1089 (2) For purposes of child support services and income withholding pursuant to Title  
1090 62A, Chapter 11, Part 3 and Part 4, child support is not considered past due until the 1st day of  
1091 the following month. For purposes other than those specified in Subsection (1) support shall  
1092 be payable 1/2 by the 5th day of each month and 1/2 by the 20th day of that month, unless the  
1093 order or decree provides for a different time for payment.

1094 (3) Each payment or installment of child or spousal support under any child support  
1095 order, as defined by Section 78-45-2, is, on and after the date it is due:

1096 (a) a judgment with the same attributes and effect of any judgment of a district court,  
1097 except as provided in Subsection (4);

1098 (b) entitled, as a judgment, to full faith and credit in this and in any other jurisdiction;  
1099 and

1100 (c) not subject to retroactive modification by this or any other jurisdiction, except as  
1101 provided in Subsection (4).

1102 (4) A child or spousal support payment under a child support order may be modified  
1103 with respect to any period during which a modification is pending, but only from the date of  
1104 service of the pleading on the obligee, if the obligor is the petitioner, or on the obligor, if the  
1105 obligee is the petitioner. [The] If the tribunal orders that the support should be modified, the  
1106 effective date of the modification shall be the month following service on the parent whose  
1107 support is affected. Once the tribunal determines that a modification is appropriate, the  
1108 tribunal shall order a judgment to be entered for any difference in the original order and the  
1109 modified amount for the period from the service of the pleading until the final order of  
1110 modification is entered [~~for any difference in the original order and the modified amount~~].

1111 (5) For purposes of this section, "jurisdiction" means a state or political subdivision, a  
1112 territory or possession of the United States, the District of Columbia, and the Commonwealth  
1113 of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

1114 (6) The judgment provided for in Subsection (3)(a), to be effective and enforceable as a  
1115 lien against the real property interest of any third party relying on the public record, shall be  
1116 docketed in the district court in accordance with Sections 78-22-1 and 62A-11-312.5.

1117 Section 20. Section ~~78-45a-7~~ is amended to read:

1118 **78-45a-7. Authority for genetic testing.**

1119 (1) Upon motion of any party to the action, made at a time so as not to delay the  
1120 proceedings unduly, the court shall order the mother, the child, and the alleged father to submit  
1121 to genetic testing if the request is supported by a sworn statement by the requesting party:

1122 (a) alleging paternity and setting forth facts establishing a reasonable possibility of the  
1123 requisite sexual contact between the parties; or

1124 (b) denying paternity and setting forth facts establishing a reasonable possibility of the  
1125 nonexistence of sexual contact between the parties.

1126 (2) The court may, upon its own initiative, order the mother, the child, and the alleged  
1127 father to submit to genetic testing.

1128 (3) (a) The court shall order genetic testing:

1129 (i) of a type generally acknowledged as reliable by accreditation bodies designated by  
1130 the federal Secretary of Health and Human Services; ~~and~~

1131 (ii) to be performed by a laboratory approved by such an accreditation body[-]; and

1132 (iii) to be performed by a laboratory that follows strict guidelines regarding chain of  
1133 custody of evidence which includes obtaining photographs of the parties at the time samples  
1134 are taken.

1135 (b) Except as provided in Subsection [~~(6)~~] (7), the cost of genetic testing shall be paid  
1136 by the party who requested it or shared between the parties if requested by the court, subject to  
1137 recoupment against the party who challenges the existence or nonexistence of paternity if the  
1138 result of the genetic test is contrary to the position of the challenger.

1139 (4) Upon request by a party, a court may order a second genetic test that complies with  
1140 Subsection (3) if paid for in advance by the requesting party and requested within 15 days of  
1141 the result of the first genetic test being sent to the last-known address on file under Section

1142 78-45a-2.

1143 (5) If the court orders a second genetic test in accordance with Subsection (4), the  
1144 additional testing must be completed within no more than 45 days of the court's order or the  
1145 requesting party's objection to the first test will be automatically denied. If failure to complete  
1146 the test occurs because of noncooperation of the mother or unavailability of the child, the time  
1147 will be tolled.

1148 [~~5~~] (6) If any party refuses to submit to genetic testing, the court may resolve the  
1149 question of paternity against that party, or may enforce its order if the rights of others and the  
1150 interests of justice so require.

1151 [~~6~~] (7) The office may request genetic testing under this section and shall pay for  
1152 genetic testing it requests subject to recoupment as provided in Section 62A-11-304.1.

1153 Section 21. Section **78-45e-2** is amended to read:

1154 **78-45e-2. Voluntary declaration of paternity.**

1155 (1) As used in this part:

1156 (a) "Birth mother" means the biological mother of a child.

1157 (b) "Declarant father" means a male who, with the biological mother, declares that he  
1158 is the father of a child conceived as the result of sexual intercourse with the mother.

1159 (c) "Pregnancy and confinement" means the costs of care for the biological mother  
1160 during her pregnancy and delivery.

1161 (d) "Presumptive father" means the father of a child conceived or born during a  
1162 marriage.

1163 (2) The mother of a child and a man who declares that he is the father of the child and  
1164 that the child was conceived as a result of sexual intercourse with the mother may sign a  
1165 declaration of paternity with the intent to establish the paternity of the child.

1166 [~~+~~] (3) (a) A voluntary declaration of paternity filed in compliance with this chapter  
1167 establishes a father-child relationship identical to the relationship established when a child is  
1168 born to persons married to each other.

1169 (b) When a voluntary declaration of paternity is filed, the liabilities of the father  
1170 include, but are not limited to, the reasonable expense of the mother's pregnancy and  
1171 confinement and for the education, necessary support, and any funeral expenses for the child.

1172 (c) When a father voluntarily declares paternity, his liability for past amounts due is

1173 limited to a period of four years immediately preceding the date that the voluntary declaration  
1174 of paternity was filed.

1175 ~~[(2)]~~ (4) When a voluntary declaration of paternity is filed it shall be recognized as a  
1176 basis for a child support order without any further requirement or proceeding regarding the  
1177 establishment of paternity.

1178 ~~[(3)]~~ (5) The voluntary declaration of paternity may be completed and signed any time  
1179 after the birth of the child. A voluntary declaration of paternity may not be executed or filed  
1180 after consent to or relinquishment for adoption has been signed.

1181 ~~[(4)]~~ (6) The voluntary declaration of paternity shall become an amendment to the  
1182 original birth certificate. The original certificate and the declaration shall be marked so as to be  
1183 distinguishable. The declaration may be included as part of subsequently issued certified  
1184 copies of the birth certificate. Alternatively, electronically issued copies of a certificate may  
1185 reflect the amended information and the date of amendment only.

1186 ~~[(5)]~~ (7) The voluntary declaration of paternity shall be in the form prescribed by the  
1187 state registrar of vital statistics and shall be accompanied with an explanation of the  
1188 alternatives to, the legal consequences of, and the rights and responsibilities that arise from  
1189 signing the declaration.

1190 ~~[(6)]~~ (8) The social security number of any person who is subject to a voluntary  
1191 declaration of paternity shall be placed in the records relating to the matter.

1192 Section 22. Section **78-45e-3** is amended to read:

1193 **78-45e-3. Requirements for filing.**

1194 (1) A voluntary declaration of paternity may not be filed with the state registrar unless  
1195 the declaration:

1196 ~~(a) states whether there has been genetic testing, and, if yes, that the declarant father's~~  
1197 ~~declaration of paternity is consistent with the results of the testing;~~

1198 ~~[(1)]~~ (b) is signed by the birth mother and ~~[biological father, and by the legal guardian~~  
1199 ~~or a parent of a biological father who is under 18 years of age,] declarant father~~ in the presence  
1200 of two witnesses who are not related ~~[by blood or marriage];~~ and

1201 ~~[(2)]~~ (c) the mother and ~~[alleged]~~ declarant father have been given notice, orally and in  
1202 writing, of the alternatives to, the legal consequences of, and the rights and responsibilities that  
1203 arise from signing the declaration.

1204           (2) In circumstances in which the birth mother was married at the time of the  
1205 conception or birth of the child and a presumptive father exists, a voluntary declaration may not  
1206 be finalized without the signature of the presumptive father.

1207           (3) If either the birth mother or the declarant father is a minor, the voluntary  
1208 declaration must also be signed by the minor's parent.

1209           Section 23. Section **78-45e-4** is amended to read:

1210           **78-45e-4. Rescission of the declaration.**

1211           (1) A signed voluntary declaration of paternity is a legal finding of paternity, subject to  
1212 the right of any signatory to rescind the acknowledgment within the earlier of:

1213           (a) 60 days of signing; or

1214           (b) the date of an administrative or judicial proceeding relating to the child, including a  
1215 proceeding to establish a support order, in which the signatory is a party.

1216           (2) (a) Within the 60-day period, a voluntary declaration of paternity may be rescinded  
1217 by filing a voluntary rescission document with the Office of Vital Records.

1218           ~~[(2)(a)]~~ (b) After the period referred to in Subsection (1), a signed voluntary  
1219 declaration of paternity may be challenged in court only on the grounds of fraud, duress, or  
1220 material mistake of fact, with the burden of proof on the challenger.

1221           ~~[(b)]~~ (c) The legal responsibilities, including child support, of any signatory arising  
1222 from the declaration may not be suspended during a challenge under Subsection (2)~~[(a)]~~(b),  
1223 except for good cause shown.

1224           (3) In determining whether to rescind the declaration the court has the same authority  
1225 and obligation with regard to genetic testing as is provided in Section 78-45a-7.

1226           (4) A child support order based on the voluntary declaration of paternity remains in  
1227 effect during the pendency of any proceeding under this section, and until a final order of the  
1228 court rescinding the voluntary declaration.

1229           (5) If the declaration is rescinded, the declarant father may not recover any child  
1230 support he provided for the child before entry of the order of rescission.