

CHILD SUPPORT COLLECTION AMENDMENTS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Julie Fisher

Senate Sponsor: Gregory S. Bell

LONG TITLE

General Description:

This bill provides exceptions for income withholding for child support collection.

Highlighted Provisions:

This bill:

- ▶ allows a court to approve a method of child support collection other than income withholding for good cause; and
- ▶ allows the Office of Recovery Services to enter into agreements with obligors for electronic payment of child support.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2008.

Utah Code Sections Affected:

AMENDS:

62A-11-403, as last amended by Chapter 232, Laws of Utah 1997

62A-11-502, as last amended by Chapter 232, Laws of Utah 1997

ENACTS:

62A-11-403.1, Utah Code Annotated 1953

62A-11-502.1, Utah Code Annotated 1953

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

Section 1. Section **62A-11-403** is amended to read:

30 **62A-11-403. Provision for income withholding in child support order --**

31 **Immediate income withholding.**

32 (1) Whenever a child support order is issued or modified in this state the obligor's
33 income is subject to immediate income withholding for the child support described in the order
34 in accordance with the provisions of this chapter[-], unless:

35 (a) the court or administrative body which entered the order finds that one of the
36 parties has demonstrated good cause so as not to require immediate income withholding; or

37 (b) a written agreement which provides an alternative payment arrangement is executed
38 by the obligor and obligee, and reviewed and entered in the record by the court or
39 administrative body.

40 (2) In every child support order issued or modified on or after January 1, 1994, the
41 court or administrative body shall include a provision that the income of an obligor is subject to
42 immediate income withholding in accordance with this chapter[; ~~however, if~~]. If for any reason
43 other than the provisions of Subsection (1) that provision is not included in the child support
44 order the obligor's income is nevertheless subject to immediate income withholding.

45 (3) In determining "good cause," the court or administrative body may, in addition to
46 any other requirement it considers appropriate, consider whether the obligor has:

47 (a) obtained a bond, deposited money in trust for the benefit of the dependent children,
48 or otherwise made arrangements sufficient to guarantee child support payments for at least two
49 months;

50 (b) arranged to deposit all child support payments into a checking account belonging to
51 the obligee, or made arrangements insuring that a reliable and independent record of the date
52 and place of child support payments will be maintained; or

53 (c) arranged for electronic transfer of funds on a regular basis to meet court-ordered
54 child support obligations.

55 Section 2. Section **62A-11-403.1** is enacted to read:

56 **62A-11-403.1. Alternative payment through electronic funds transfer.**

57 (1) The office may enter into a written alternative payment agreement with an obligor

58 which provides for electronic payment of child support. Electronic payment shall be
 59 accomplished through an automatic withdrawal from the obligor's account at a financial
 60 institution.

61 (2) The alternative payment agreement shall:

62 (a) provide for electronic payment of child support in lieu of income withholding;

63 (b) specify the date on which electronic payments will be withdrawn from an obligor's
 64 account; and

65 (c) specify the amount which will be withdrawn.

66 (3) The office may terminate the agreement and initiate immediate income withholding
 67 if:

68 (a) required to meet federal or state requirements or guidelines;

69 (b) funds available in the account at the scheduled time of withdrawal are insufficient
 70 to satisfy the agreement; or

71 (c) requested by the obligor.

72 (4) If the payment amount requires adjusting, the office may initiate a new written
 73 agreement with the obligor. If, for any reason, the office and obligor fail to agree on the terms,
 74 the office may terminate the agreement and initiate income withholding.

75 (5) If an agreement is terminated for insufficient funds, a new agreement may not be
 76 entered into between the office and obligor for a period of at least 12 months.

77 (6) The office shall make rules specifying eligibility requirements for obligors to enter
 78 into alternative payment agreements.

79 Section 3. Section **62A-11-502** is amended to read:

80 **62A-11-502. Child support orders issued or modified on or after January 1, 1994**
 81 **-- Immediate income withholding.**

82 (1) With regard to obligees or obligors who are not receiving IV-D services, each child
 83 support order issued or modified on or after January 1, 1994, subjects the income of an obligor
 84 to immediate income withholding as of the effective date of the order, regardless of whether a
 85 delinquency occurs unless:

86 (a) the court or administrative body that entered the order finds that one of the parties
87 has demonstrated good cause so as not to require immediate income withholding; or

88 (b) a written agreement [~~that~~] which provides an alternative payment arrangement is
89 executed by the obligor and obligee, and reviewed and entered in the record by the court or
90 administrative body.

91 (2) For purposes of this section:

92 (a) an action on or after January 1, 1994, to reduce child support arrears to judgment,
93 without a corresponding establishment of or modification to a base child support amount, is not
94 sufficient to trigger immediate income withholding;

95 (b) "good cause" shall be based on, at a minimum:

96 (i) a determination and explanation on the record by the court or administrative body
97 that implementation of income withholding would not be in the best interest of the child; and

98 (ii) proof of timely payment of any previously ordered support;

99 (c) in determining "good cause," the court or administrative body may, in addition to
100 any other requirement [~~that~~] it [~~deems~~] considers appropriate, consider whether the obligor has:

101 (i) obtained a bond, deposited money in trust for the benefit of the dependent children,
102 or otherwise made arrangements sufficient to guarantee child support payments for at least two
103 months; [~~and~~]

104 (ii) arranged to deposit all child support payments into a checking account belonging to
105 the obligee, or made arrangements insuring that a reliable and independent record of the date
106 and place of child support payments will be maintained[-]; or

107 (iii) arranged for electronic transfer of funds on a regular basis to meet court-ordered
108 child support obligations.

109 (3) In cases where the court or administrative body that entered the order finds a
110 demonstration of good cause or enters a written agreement that immediate income withholding
111 is not required, in accordance with this section, any party may subsequently pursue income
112 withholding on the earliest of the following dates:

113 (a) the date payment of child support becomes delinquent;

114 (b) the date the obligor requests;

115 (c) the date the obligee requests if a written agreement under Subsection (1)(b) exists;

116 or

117 (d) the date the court or administrative body so modifies that order.

118 (4) The court shall include in every child support order issued or modified on or after
119 January 1, 1994, a provision that the income of an obligor is subject to income withholding in
120 accordance with this chapter; however, if for any reason that provision is not included in the
121 child support order, the obligor's income is nevertheless subject to income withholding.

122 (5) (a) In any action to establish or modify a child support order after July 1, 1997, the
123 court, upon request by the obligee or obligor, shall commence immediate income withholding
124 by ordering the clerk of the court or the requesting party to:

125 (i) mail written notice to the payor at the payor's last-known address that contains the
126 information required by Section 62A-11-506; and

127 (ii) mail a copy of the written notice sent to the payor under Subsection (5)(a)(i) and a
128 copy of the support order to the office.

129 (b) If neither the obligee nor obligor requests commencement of income withholding
130 under Subsection (5)(a), the court shall include in the order to establish or modify child support
131 a provision that the obligor or obligee may commence income withholding by:

132 (i) applying for IV-D services with the office; or

133 (ii) filing an ex parte motion with a district court of competent jurisdiction pursuant to
134 Section 62A-11-504.

135 (c) A payor who receives written notice under Subsection (5)(a)(i) shall comply with
136 the requirements of Section 62A-11-507.

137 Section 4. Section **62A-11-502.1** is enacted to read:

138 **62A-11-502.1. Alternative payment through electronic funds transfer.**

139 (1) The office may enter into a written alternative payment agreement with an obligor
140 which provides for electronic payment of child support. Electronic payment shall be
141 accomplished through an automatic withdrawal from the obligor's account at a financial

142 institution.

143 (2) The alternative payment agreement shall:

144 (a) provide for electronic payment of child support in lieu of income withholding;

145 (b) specify the date on which electronic payments will be withdrawn from an obligor's
146 account; and

147 (c) specify the amount which will be withdrawn.

148 (3) The office may terminate the agreement and initiate immediate income withholding
149 if:

150 (a) required to meet federal or state requirements or guidelines;

151 (b) funds available in the account at the scheduled time of withdrawal are insufficient
152 to satisfy the agreement; or

153 (c) requested by the obligor.

154 (4) If the payment amount requires adjusting, the office may initiate a new written
155 agreement with the obligor. If, for any reason, the office and obligor fail to agree on the terms,
156 the office may terminate the agreement and initiate income withholding.

157 (5) If an agreement is terminated for insufficient funds, a new agreement may not be
158 entered into between the office and obligor for a period of at least 12 months.

159 (6) The office shall make rules specifying eligibility requirements for obligors to enter
160 into alternative payment agreements.

161 Section 5. **Effective date.**

162 This bill takes effect on January 1, 2008.