

**CHILD SUPPORT MODIFICATIONS FOR
TANF RECIPIENTS**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Lorie D. Fowlke

LONG TITLE

General Description:

This bill brings the Office of Recovery Services into compliance with the federal Deficit Reduction Act of 2006 regarding the collection and modification of child support awards.

Highlighted Provisions:

This bill:

- ▶ provides for the adjustment or modification of child support awards under specific circumstances; and
- ▶ brings current statutes into compliance with the federal Deficit Reduction Act of 2006.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78-45-7.2, as last amended by Chapter 176, Laws of Utah 2003

ENACTS:

62A-11-306.2, Utah Code Annotated 1953

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

30 Section 1. Section **62A-11-306.2** is enacted to read:

31 **62A-11-306.2. Mandatory review and adjustment of child support orders for**
32 **TANF recipients.**

33 If a child support order has not been issued, adjusted, or modified within the previous
34 three years and the children who are the subject of the order currently receive TANF funds, the
35 office shall review the order, and if appropriate, move the tribunal to adjust the amount of the
36 order if there is a difference of 10% or more between the payor's ordered support amount and
37 the payor's support amount required under the guidelines.

38 Section 2. Section **78-45-7.2** is amended to read:

39 **78-45-7.2. Application of guidelines -- Rebuttal.**

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

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

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

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

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

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

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

57 (c) the deviation was made because there were more children than provided for in the

58 guidelines table.

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

62 (6) (a) Natural or adoptive children of either parent who live in the home of that parent
63 and are not children in common to both parties may at the option of either party be taken into
64 account under the guidelines in setting or modifying a child support award, as provided in
65 Subsection (7). Credit may not be given if:

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

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

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

73 (7) In a proceeding to adjust or modify an existing award, consideration of natural or
74 adoptive children born after entry of the order and who are not in common to both parties may
75 be applied to mitigate an increase in the award but may not be applied:

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

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

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

83 (b) Upon receiving a [~~petition~~] motion under Subsection (8)(a), the court shall, taking
84 into account the best interests of the child, determine whether there is a difference between the
85 amount ordered and the amount that would be required under the guidelines. If there is a

86 difference of 10% or more and the difference is not of a temporary nature, the court shall adjust
87 the amount to that which is provided for in the guidelines.

88 (c) A showing of a substantial change in circumstances is not necessary for an
89 adjustment under Subsection (8)(b).

90 (9) (a) A parent, legal guardian, or the office may at any time petition the court to
91 adjust the amount of a child support order if there has been a substantial change in
92 circumstances.

93 (b) For purposes of Subsection (9)(a), a substantial change in circumstances may
94 include:

95 (i) material changes in custody;

96 (ii) material changes in the relative wealth or assets of the parties;

97 (iii) material changes of 30% or more in the income of a parent;

98 (iv) material changes in the ability of a parent to earn;

99 (v) material changes in the medical needs of the child; and

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

102 (c) Upon receiving a petition under Subsection (9)(a), the court shall, taking into
103 account the best interests of the child, determine whether a substantial change has occurred. If
104 it has, the court shall then determine whether the change results in a difference of 15% or more
105 between the amount of child support ordered and the amount that would be required under the
106 guidelines. If there is such a difference and the difference is not of a temporary nature, the
107 court shall adjust the amount of child support ordered to that which is provided for in the
108 guidelines.

109 (10) Notice of the opportunity to adjust a support order under Subsections (8) and (9)
110 shall be included in each child support order issued or modified after July 1, 1997.