

**CHILD SUPPORT - CASH MEDICAL  
SUPPORT**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gregory S. Bell**

House Sponsor: Bradley G. Last

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**LONG TITLE**

**General Description:**

This bill defines the term "cash medical support" as an obligation to equally share all reasonable and necessary medical and dental expenses of children and requires the court and the Office of Recovery Services to provide cash medical support provisions in child support orders.

**Highlighted Provisions:**

This bill:

- ▶ requires the court to include a cash medical support provision in its child support orders; and
- ▶ requires the Office of Recovery Services to include a provision assigning responsibility for cash medical support in its orders.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**62A-11-103**, as last amended by Laws of Utah 2000, Chapter 161

**62A-11-326**, as last amended by Laws of Utah 1990, Chapter 166



28 78B-12-102, as renumbered and amended by Laws of Utah 2008, Chapter 3

29 78B-12-212, as renumbered and amended by Laws of Utah 2008, Chapter 3



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

32 Section 1. Section 62A-11-103 is amended to read:

33 **62A-11-103. Definitions.**

34 As used in this part:

35 (1) "Account" means a demand deposit account, checking or negotiable withdrawal  
36 order account, savings account, time deposit account, or money-market mutual fund account.

37 (2) "Cash medical support" means an obligation to equally share all reasonable and  
38 necessary medical and dental expenses of children.

39 [~~(2)~~] (3) "Child support services" or "IV-D child support services" means services  
40 provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651, et seq.

41 [~~(3)~~] (4) "Director" means the director of the Office of Recovery Services.

42 [~~(4)~~] (5) "Disposable earnings" means that part of the earnings of an individual  
43 remaining after the deduction of all amounts required by law to be withheld.

44 [~~(5)~~] (6) "Financial institution" means:

45 (a) a depository institution as defined in Section 7-1-103 or the Federal Deposit  
46 Insurance Act, 12 U.S.C. Sec. 1813(c);

47 (b) an institution-affiliated party as defined in the Federal Deposit Insurance Act, 12  
48 U.S.C. Sec. 1813(u);

49 (c) any federal credit union or state credit union as defined in the Federal Credit Union  
50 Act, 12 U.S.C. Sec. 1752, including an institution-affiliated party of such a credit union as  
51 defined in 12 U.S.C. Sec. 1786(r);

52 (d) a broker-dealer as defined in Section 61-1-13; or

53 (e) any benefit association, insurance company, safe deposit company, money-market  
54 mutual fund, or similar entity authorized to do business in the state.

55 [~~(6)~~] (7) "Financial record" is defined in the Right to Financial Privacy Act of 1978, 12  
56 U.S.C. Sec. 3401.

57 [~~(7)~~] (8) "Income" means earnings, compensation, or other payment due to an  
58 individual, regardless of source, whether denominated as wages, salary, commission, bonus,

59 pay, or contract payment, or denominated as advances on future wages, salary, commission,  
60 bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and  
61 incentive pay. "Income" includes:

62 (a) all gain derived from capital assets, labor, or both, including profit gained through  
63 sale or conversion of capital assets;

64 (b) interest and dividends;

65 (c) periodic payments made under pension or retirement programs or insurance policies  
66 of any type;

67 (d) unemployment compensation benefits;

68 (e) workers' compensation benefits; and

69 (f) disability benefits.

70 ~~[(8)]~~ (9) "IV-D" means Part D of Title IV of the Social Security Act, 42 U.S.C. Sec.  
71 651 et seq.

72 ~~[(9)]~~ (10) "New hire registry" means the centralized new hire registry created in  
73 Section 35A-7-103.

74 ~~[(10)]~~ (11) "Obligee" means an individual, this state, another state, or other comparable  
75 jurisdiction to whom a debt is owed or who is entitled to reimbursement of child support or  
76 public assistance.

77 ~~[(11)]~~ (12) "Obligor" means a person, firm, corporation, or the estate of a decedent  
78 owing money to this state, to an individual, to another state, or other comparable jurisdiction in  
79 whose behalf this state is acting.

80 ~~[(12)]~~ (13) "Office" means the Office of Recovery Services.

81 ~~[(13)]~~ (14) "Provider" means a person or entity that receives compensation from any  
82 public assistance program for goods or services provided to a public assistance recipient.

83 ~~[(14)]~~ (15) "Public assistance" or "assistance" means:

84 (a) services or benefits provided under Title 35A, Chapter 3, Employment Support Act;

85 (b) medical assistance provided under Title 26, Chapter 18, Medical Assistance Act;

86 (c) foster care maintenance payments under Part E of Title IV of the Social Security  
87 Act, 42 U.S.C. Sec. 670, et seq.;

88 (d) food stamps; or

89 (e) any other public funds expended for the benefit of a person in need of financial,

90 medical, food, housing, or related assistance.

91 [(+5)] (16) "State case registry" means the central, automated record system maintained  
92 by the office and the central, automated district court record system maintained by the  
93 Administrative Office of the Courts, that contains records which use standardized data  
94 elements, such as names, social security numbers and other uniform identification numbers,  
95 dates of birth, and case identification numbers, with respect to:

96 (a) each case in which services are being provided by the office under the state IV-D  
97 child support services plan; and

98 (b) each support order established or modified in the state on or after October 1, 1998.

99 Section 2. Section **62A-11-326** is amended to read:

100 **62A-11-326. Medical and dental expenses of dependent children.**

101 In any action under this part, the office and the department in their orders:

102 (1) shall include a provision assigning responsibility for [~~the payment of reasonable~~  
103 ~~and necessary medical and dental expenses of the dependent children~~] cash medical support;  
104 and

105 (2) [~~may~~] shall include a provision requiring the purchase and maintenance of  
106 appropriate medical, hospital, and dental care insurance for those children, if:

107 (a) insurance coverage is or becomes available at a reasonable cost[-]; and

108 (b) the insurance coverage is accessible to the children.

109 Section 3. Section **78B-12-102** is amended to read:

110 **78B-12-102. Definitions.**

111 As used in this chapter:

112 (1) "Adjusted gross income" means income calculated under Subsection  
113 78B-12-204(1).

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

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

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

121 (5) "Base combined child support obligation table," "child support table," "base child  
 122 support obligation table," "low income table," or "table" means the appropriate table in Part 3,  
 123 Tables.

124 (6) "Cash medical support" means an obligation to equally share all reasonable and  
 125 necessary medical and dental expenses of children.

126 [~~(6)~~] (7) "Child" means:

127 (a) a son or daughter under the age of 18 years who is not otherwise emancipated,  
 128 self-supporting, married, or a member of the armed forces of the United States;

129 (b) a son or daughter over the age of 18 years, while enrolled in high school during the  
 130 normal and expected year of graduation and not otherwise emancipated, self-supporting,  
 131 married, or a member of the armed forces of the United States; or

132 (c) a son or daughter of any age who is incapacitated from earning a living and, if able  
 133 to provide some financial resources to the family, is not able to support self by own means.

134 [~~(7)~~] (8) "Child support" means a base child support award, or a monthly financial  
 135 award for uninsured medical expenses, ordered by a tribunal for the support of a child,  
 136 including current periodic payments, all arrearages which accrue under an order for current  
 137 periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and  
 138 child care costs.

139 [~~(8)~~] (9) "Child support order" or "support order" means a judgment, decree, or order of  
 140 a tribunal whether interlocutory or final, whether or not prospectively or retroactively  
 141 modifiable, whether incidental to a proceeding for divorce, judicial or legal separation, separate  
 142 maintenance, paternity, guardianship, civil protection, or otherwise which:

143 (a) establishes or modifies child support;

144 (b) reduces child support arrearages to judgment; or

145 (c) establishes child support or registers a child support order under [~~Title 78B,~~]  
 146 Chapter 14, Uniform Interstate Family Support Act.

147 [~~(9)~~] (10) "Child support services" or "IV-D child support services" means services  
 148 provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Section 651 et  
 149 seq.

150 [~~(10)~~] (11) "Court" means the district court or juvenile court.

151 [~~(11)~~] (12) "Guidelines" means the directions for the calculation and application of

152 child support in Part 2, Calculation and Adjustment.

153 ~~[(12)]~~ (13) "Income" means earnings, compensation, or other payment due to an  
154 individual, regardless of source, whether denominated as wages, salary, commission, bonus,  
155 pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and  
156 incentive pay. "Income" includes:

157 (a) all gain derived from capital assets, labor, or both, including profit gained through  
158 sale or conversion of capital assets;

159 (b) interest and dividends;

160 (c) periodic payments made under pension or retirement programs or insurance policies  
161 of any type;

162 (d) unemployment compensation benefits;

163 (e) workers' compensation benefits; and

164 (f) disability benefits.

165 ~~[(13)]~~ (14) "Joint physical custody" means the child stays with each parent overnight  
166 for more than 30% of the year, and both parents contribute to the expenses of the child in  
167 addition to paying child support.

168 ~~[(14)]~~ (15) "Medical expenses" means health and dental expenses and related insurance  
169 costs.

170 ~~[(15)]~~ (16) "Obligee" means an individual, this state, another state, or another  
171 comparable jurisdiction to whom child support is owed or who is entitled to reimbursement of  
172 child support or public assistance.

173 ~~[(16)]~~ (17) "Obligor" means any person owing a duty of support.

174 ~~[(17)]~~ (18) "Office" means the Office of Recovery Services within the Department of  
175 Human Services.

176 ~~[(18)]~~ (19) "Parent" includes a natural parent, or an adoptive parent.

177 ~~[(19)]~~ (20) "Split custody" means that each parent has physical custody of at least one  
178 of the children.

179 ~~[(20)]~~ (21) "State" includes any state, territory, possession of the United States, the  
180 District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other  
181 comparable domestic or foreign jurisdiction.

182 ~~[(21)]~~ (22) "Temporary" means a period of time that is projected to be less than 12

183 months in duration.

184 ~~[(22)]~~ (23) "Third party" means an agency or a person other than the biological or  
185 adoptive parent or a child who provides care, maintenance, and support to a child.

186 ~~[(23)]~~ (24) "Tribunal" means the district court, the Department of Human Services,  
187 Office of Recovery Services, or court or administrative agency of any state, territory,  
188 possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico,  
189 Native American Tribe, or other comparable domestic or foreign jurisdiction.

190 ~~[(24)]~~ (25) "Work-related child care costs" means reasonable child care costs for up to  
191 a full-time work week or training schedule as necessitated by the employment or training of a  
192 parent under Section 78B-12-215.

193 ~~[(25)]~~ (26) "Worksheets" means the forms used to aid in calculating the base child  
194 support award.

195 Section 4. Section **78B-12-212** is amended to read:

196 **78B-12-212. Medical expenses.**

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

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

- 201 (a) reasonableness of the cost;  
202 (b) availability of a group insurance policy;  
203 (c) coverage of the policy; and  
204 (d) preference of the custodial parent.

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

207 (4) The parent who provides the insurance coverage may receive credit against the base  
208 child support award or recover the other parent's share of the children's portion of the premium.  
209 In cases in which the parent does not have insurance but another member of the parent's  
210 household provides insurance coverage for the children, the parent may receive credit against  
211 the base child support award or recover the other parent's share of the children's portion of the  
212 premium.

213 (5) The children's portion of the premium is a per capita share of the premium actually

214 paid. The premium expense for the children shall be calculated by dividing the premium  
215 amount by the number of persons covered under the policy and multiplying the result by the  
216 number of children in the instant case.

217 (6) The order shall [~~require~~] include a cash medical support provision that requires  
218 each parent to [~~share~~] equally share all reasonable and necessary uninsured and unreimbursed  
219 medical and dental expenses incurred for the dependent children, including but not limited to  
220 deductibles and copayments.

221 (7) The parent ordered to maintain insurance shall provide verification of coverage to  
222 the other parent, or to the Office of Recovery Services under Title IV of the Social Security  
223 Act, 42 U.S.C. Section 601 et seq., upon initial enrollment of the dependent children, and  
224 thereafter on or before January 2 of each calendar year. The parent shall notify the other  
225 parent, or the Office of Recovery Services under Title IV of the Social Security Act, 42 U.S.C.  
226 Section 601 et seq., of any change of insurance carrier, premium, or benefits within 30 calendar  
227 days of the date the parent first knew or should have known of the change.

228 (8) A parent who incurs medical expenses shall provide written verification of the cost  
229 and payment of medical expenses to the other parent within 30 days of payment.

230 (9) In addition to any other sanctions provided by the court, a parent incurring medical  
231 expenses may be denied the right to receive credit for the expenses or to recover the other  
232 parent's share of the expenses if that parent fails to comply with Subsections (7) and (8).

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**Legislative Review Note**  
**as of 2-2-09 6:31 AM**

**Office of Legislative Research and General Counsel**



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**S.B. 158 - Child Support - Cash Medical Support**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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