

**CHILD SUPPORT FOR CHILDREN IN STATE  
CUSTODY**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions of the Utah Human Services Code relating to the collection of child support for a child who is in state custody.

**Highlighted Provisions:**

This bill:

- ▶ prohibits the Office of Recovery Services, within the Department of Human Services, from providing child support services to the state for a period of time when the child is living in the home of a parent of the child, regardless of whether the child is living in the home on a trial basis;
- ▶ provides that the state is not entitled to child support for a period of time for which child support services may not be provided under the preceding paragraph; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**7-1-1006**, as last amended by Laws of Utah 2009, Chapter 381



28           **62A-11-104**, as last amended by Laws of Utah 2008, Chapter 3



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

31           Section 1. Section **7-1-1006** is amended to read:

32           **7-1-1006. Inapplicable to certain official investigations.**

33           (1) Sections 7-1-1002 and 7-1-1003 do not apply if an examination of a record is a part  
34 of an official investigation by:

- 35           (a) local police;
- 36           (b) a sheriff;
- 37           (c) a peace officer;
- 38           (d) a city attorney;
- 39           (e) a county attorney;
- 40           (f) a district attorney;
- 41           (g) the attorney general;
- 42           (h) the Department of Public Safety;
- 43           (i) the Office of Recovery Services of the Department of Human Services;
- 44           (j) the Insurance Department;
- 45           (k) the Department of Commerce;
- 46           (l) the Benefit Payment Control Unit or the Payment Error Prevention Unit of the  
47 Department of Workforce Services;
- 48           (m) the state auditor; or
- 49           (n) the State Tax Commission.

50           (2) Except for the Office of Recovery Services, if a governmental entity listed in  
51 Subsection (1) seeks a record, the entity shall obtain the record as follows:

- 52           (a) if the record is a nonprotected record, by request in writing that:
  - 53           (i) certifies that an official investigation is being conducted; and
  - 54           (ii) is signed by a representative of the governmental entity that is conducting the  
55 official investigation; or
- 56           (b) if the record is a protected record, by obtaining:
  - 57           (i) a subpoena authorized by statute;
  - 58           (ii) other legal process;

59 (A) ordered by a court of competent jurisdiction; and  
 60 (B) served upon the financial institution; or  
 61 (iii) written permission from all account holders of the account referenced in the record  
 62 to be examined.

63 (3) If the Office of Recovery Services seeks a record, the Office of Recovery Services  
 64 shall obtain the record pursuant to:

- 65 (a) Subsection 62A-11-104~~(7)~~(1)(g);
- 66 (b) Section 62A-11-304.1;
- 67 (c) Section 62A-11-304.5; or
- 68 (d) Title IV, Part D of the Social Security Act as codified in 42 U.S.C. 651 et seq.

69 (4) A financial institution may not give notice to an account holder or person named or  
 70 referenced within the record disclosed pursuant to Subsection (2)(a).

71 (5) In accordance with Section 7-1-1004, the governmental entity conducting the  
 72 official investigation that obtains a record from a financial institution under this section shall  
 73 reimburse the financial institution for costs reasonably and directly incurred by the financial  
 74 institution.

75 Section 2. Section **62A-11-104** is amended to read:

76 **62A-11-104. Duties of office.**

77 (1) The office has the following duties:

78 ~~(1)~~ (a) except as provided in Subsection (2), to provide child support services if:

79 ~~(a)~~ (i) the office has received an application for child support services;

80 ~~(b)~~ (ii) the state has provided public assistance; or

81 ~~(c)~~ (iii) a child lives out of the home in the protective custody, temporary custody, or  
 82 custody or care of the state;

83 ~~(2)~~ (b) to carry out the obligations of the department contained in this chapter and in  
 84 Title 78B, Chapters 12, Utah Child Support Act, Chapter 15, Utah Uniform Parentage Act, and  
 85 Chapter 14, Uniform Interstate Family Support Act, for the purpose of collecting child support;

86 ~~(3)~~ (c) to collect money due the department which could act to offset expenditures by  
 87 the state;

88 ~~(4)~~ (d) to cooperate with the federal government in programs designed to recover  
 89 health and social service funds;

90           ~~[(5)]~~ (e) to collect civil or criminal assessments, fines, fees, amounts awarded as  
91 restitution, and reimbursable expenses owed to the state or any of its political subdivisions, if  
92 the office has contracted to provide collection services;

93           ~~[(6)]~~ (f) to implement income withholding for collection of child support in accordance  
94 with Part 4, Income Withholding in IV-D Cases, of this chapter;

95           ~~[(7)]~~ (g) to enter into agreements with financial institutions doing business in the state  
96 to develop and operate, in coordination with such financial institutions, a data match system in  
97 the manner provided for in Section 62A-11-304.5;

98           ~~[(8)]~~ (h) to establish and maintain the state case registry in the manner required by the  
99 Social Security Act, 42 U.S.C. Sec. 654a, which shall include a record in each case of:

100           ~~[(a)]~~ (i) the amount of monthly or other periodic support owed under the order, and  
101 other amounts, including arrearages, interest, late payment penalties, or fees, due or overdue  
102 under the order;

103           ~~[(b)]~~ (ii) any amount described in Subsection ~~[(8)(a)]~~ (1)(h)(i) that has been collected;

104           ~~[(c)]~~ (iii) the distribution of collected amounts;

105           ~~[(d)]~~ (iv) the birth date of any child for whom the order requires the provision of  
106 support; and

107           ~~[(e)]~~ (v) the amount of any lien imposed with respect to the order pursuant to this part;

108           ~~[(9)]~~ (i) to contract with the Department of Workforce Services to establish and  
109 maintain the new hire registry created under Section 35A-7-103;

110           ~~[(10)]~~ (j) to determine whether an individual who has applied for or is receiving cash  
111 assistance or Medicaid is cooperating in good faith with the office as required by Section  
112 62A-11-307.2;

113           ~~[(11)]~~ (k) to finance any costs incurred from collections, fees, General Fund  
114 appropriation, contracts, and federal financial participation; and

115           ~~[(12)]~~ (l) to provide notice to a noncustodial parent in accordance with Section  
116 62A-11-304.4 of the opportunity to contest the accuracy of allegations by a custodial parent of  
117 nonpayment of past-due child support, prior to taking action against a noncustodial parent to  
118 collect the alleged past-due support.

119           (2) The office may not provide child support services to the state, nor to any  
120 department, division, or office of the state, for a period of time when the child to whom the

121 child support services relate is living in the home of a parent of the child, regardless of whether  
122 the child is living in the home on a trial basis.

123 (3) Neither the state, nor any department, division, or office of the state, is entitled to  
124 child support, for a child to whom the child support relates, for a period of time when child  
125 support services may not be provided under Subsection (2).

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**Legislative Review Note**  
as of 1-19-10 1:24 PM

**Office of Legislative Research and General Counsel**