

PAYMENTS FOR STATE CARE OF CHILDREN

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christine F. Watkins

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill amends provisions relating to child support obligations for a child in state custody.

Highlighted Provisions:

This bill:

- ▶ waives a child support obligation for a low-income individual who is receiving certain government assistance and whose child is in state custody; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-6-1106, as last amended by Laws of Utah 2013, Chapter 416

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

Section 1. Section **78A-6-1106** is amended to read:

78A-6-1106. Child support obligation when custody of a child is vested in an individual or institution.

(1) As used in this section:

29 (a) "Office" means the Office of Recovery Services.

30 (b) "State custody" means that a child is in the custody of a state department, division,
31 or agency, including a secure youth corrections facility.

32 (2) Under this section, a court may not issue a child support order against an individual
33 unless:

34 (a) the individual is served with notice that specifies the date and time of a hearing to
35 determine the financial support of a specified child;

36 (b) the individual makes a voluntary appearance; or

37 (c) the individual submits a waiver of service.

38 ~~[(1)]~~ (3) Except as provided in Subsection (11), when [legal custody of a child is
39 vested by the court in a secure youth corrections facility or any other state department, division,
40 or agency other than the child's parents,] a court places a child in state custody or if the
41 guardianship of the child has been granted to another party and an agreement for a guardianship
42 subsidy has been signed by the guardian, the court [shall]:

43 (a) shall order the parents, a parent, or [any] other obligated [person] individual to pay
44 child support for each month the child is in [custody. In the same proceeding the court shall]
45 state custody or cared for under a grant of guardianship; and

46 (b) shall inform the parents, a parent, or [any] other obligated [person] individual,
47 verbally and in writing, of the requirement to pay child support in accordance with Title 78B,
48 Chapter 12, Utah Child Support Act[-]; and

49 (c) may refer the establishment of a child support order to the office.

50 ~~[(2) If legal custody of a child is vested by the court in a secure youth corrections~~
51 ~~facility, or any other state department, division, or agency, the court may refer the~~
52 ~~establishment of a child support order to the Office of Recovery Services. The referral shall be~~
53 ~~sent to the Office of Recovery Services within three working days of the hearing. Support~~
54 ~~obligation amounts shall be set by the Office of Recovery Services in accordance with Title~~
55 ~~78B, Chapter 12, Utah Child Support Act.]~~

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

63 ~~[(4) If a child is returned home and legal custody is subsequently vested by the court in~~
64 ~~a secure youth corrections facility or any other state department, division, or agency other than~~
65 ~~the child's parents, the liability for support shall accrue from the date the child is subsequently~~
66 ~~removed from the home, including time spent in detention or sheltered care.]~~

67 (4) When a court chooses to refer a case to the office to determine support obligation
68 amounts in accordance with Title 78B, Chapter 12, Utah Child Support Act, the court shall:

69 (a) make the referral within three working days after the day on which the court holds
70 the hearing described in Subsection (2)(a); and

71 (b) inform the parents, a parent, or other obligated individual of:

72 (i) the requirement to contact the office within 30 days after the day on which the court
73 holds the hearing described in Subsection (2)(a); and

74 (ii) the penalty described in Subsection (6) for failure to contact the office.

75 (5) Liability for child support ordered under Subsection (3) shall accrue:

76 (a) except as provided in Subsection (5)(b), beginning on day 61 after the day on which
77 the court holds the hearing described in Subsection (2)(a), if there is no existing child support
78 order for the child; or

79 (b) beginning on the day the child is removed from the child's home, including time
80 spent in detention or sheltered care, if the child is removed after having been returned to the
81 child's home from state custody.

82 ~~[(5)] (6) (a) If the parents, a parent, or other obligated [person meets with the Office of~~

83 ~~Recovery Services]~~ individual contacts the office within 30 days ~~[of the date of the hearing]~~
84 after the day on which the court holds the hearing described in Subsection (2)(a), the child
85 support order may not include a judgment for past due support for more than two months.

86 (b) Notwithstanding ~~[Subsection (5)(a)]~~ Subsections (5) and (6)(a), the court may order
87 the liability of support to begin to accrue from the date of the proceeding referenced in
88 Subsection ~~[(1)]~~ (3) if:

89 ~~[(i) the parents, parent, or any other person obligated fails to meet with the Office of~~
90 ~~Recovery Services within 30 days after being informed orally and in writing by the court of that~~
91 ~~requirement; and]~~

92 (i) the court informs the parents, a parent, or other obligated individual, as described in
93 Subsection (4)(b), and the parents, a parent, or other obligated individual fails to contact the
94 office within 30 days after the day on which the court holds the hearing described in Subsection
95 (2)(a); and

96 (ii) the [Office of Recovery Services] office took reasonable steps under the
97 circumstances to contact the parents, parent, or other ~~[person obligated within the subsequent~~
98 ~~30-day period]~~ obligated individual within 30 days after the last day on which the parents, a
99 parent, or other obligated individual was required to contact the office to facilitate the
100 establishment of ~~[the]~~ a child support order.

101 (c) For purposes of Subsection ~~[(5)]~~ (6)(b)(ii), the ~~[Office of Recovery Services shall~~
102 ~~be]~~ office is presumed to have taken reasonable steps if the office:

103 (i) has a signed, returned receipt for a certified letter mailed to the address of the
104 parents, a parent, or other obligated ~~[person]~~ individual regarding the requirement that a child
105 support order be established; or

106 (ii) has had a documented conversation, whether by telephone or in person, with the
107 parents, parent, or other obligated ~~[person]~~ individual regarding the requirement that a child
108 support order be established.

109 ~~[(6)]~~ (7) In collecting arrears, the ~~[Office of Recovery Services]~~ office shall comply

110 with Section 62A-11-320 in setting a payment schedule or demanding payment in full.

111 ~~[(7)]~~ (8) Unless ~~[otherwise ordered]~~ a court orders otherwise, the parents, a parent, or
112 other ~~[person]~~ obligated individual shall pay the child support to the ~~[Office of Recovery~~
113 ~~Services]~~ office. The clerk of the court, the ~~[Office of Recovery Services]~~ office, or the
114 Department of Human Services and its divisions shall have authority to receive periodic
115 payments for the care and maintenance of the child, such as Social Security payments or
116 railroad retirement payments made in the name of or for the benefit of the child.

117 ~~[(8) No court order under this section against a parent or other person shall be entered;~~
118 ~~unless notice of hearing has been served within the state, a voluntary appearance is made, or a~~
119 ~~waiver of service given. The notice shall specify that a hearing with respect to the financial~~
120 ~~support of the child will be held.]~~

121 (9) An existing child support order payable to a parent or other ~~[obligated person]~~
122 individual shall be assigned to the Department of Human Services as provided in Section
123 62A-1-117.

124 (10) (a) Subsections ~~[(3)]~~ (4) through (9) ~~[shall]~~ do not apply if legal custody of a child
125 is vested by the court in an individual.

126 (b) If legal custody of a child is vested by the court in an individual, the court may
127 order the parents, a parent, or ~~[any]~~ other obligated ~~[person]~~ individual to pay child support to
128 the individual in whom custody is vested. In the same proceeding, the court shall inform the
129 parents, a parent, or ~~[any]~~ other obligated ~~[person]~~ individual, verbally and in writing, of the
130 requirement to pay child support in accordance with Title 78B, Chapter 12, Utah Child Support
131 Act.

132 (11) ~~[(a)]~~ The court may not order ~~[the parent or any other obligated person]~~ an
133 individual to pay child support for a child in state custody if:

134 ~~[(i)]~~ (a) the ~~[parent or other obligated person's]~~ individual's only form of income is a
135 government-issued disability benefit; ~~[and]~~

136 ~~[(ii)]~~ (b) the benefit described in Subsection (11)(a)~~[(i)]~~ is issued because of the ~~[parent~~

137 ~~or other person's]~~ individual's disability, and not the child's disability[-]; and

138 ~~[(b) If a person seeks to be excused from providing support under Subsection (11)(a);~~
139 ~~the person shall provide the court and the Office of Recovery Services with evidence that the~~
140 ~~person meets the requirements of Subsection (11)(a).]~~

141 (c) the individual provides the court and the office evidence that the individual meets
142 the requirements of Subsections (11)(a) and (b).

143 (12) After the court or the office establishes an individual's child support obligation
144 ordered under Subsection (3), the office shall waive the obligation without further order of the
145 court if:

146 (a) the individual's child support obligation is established under Subsection
147 78B-12-205(6) or Section 78B-12-302; or

148 (b) the individual's only source of income is a means-tested, income replacement
149 payment of aid, including:

150 (i) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment
151 Program; or

152 (ii) cash benefits received under General Assistance, social security income, or social
153 security disability income.