

**PAYMENTS FOR STATE CARE OF CHILDREN**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Christine F. Watkins**

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

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**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 whose child is in state custody and who is receiving certain government assistance; 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

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*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.**



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

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

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

55 ~~[(3) If referred to the Office of Recovery Services pursuant to Subsection (2), the court~~  
56 ~~shall also inform the parties that they are required to contact the Office of Recovery Services~~  
57 ~~within 30 days of the date of the hearing to establish a child support order and the penalty in~~  
58 ~~Subsection (5) for failing to do so. If there is no existing child support order for the child, the~~

59 liability for support shall accrue beginning on the 61st day following the hearing that occurs the  
 60 first time the court vests custody of the child in a secure youth corrections facility, or any other  
 61 state department, division, or agency other than the child's parents.]

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

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

68 (a) make the referral within three working days after the day on which the court placed  
 69 the child in state custody; and

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

71 (i) the requirement to contact the office within 30 days after the day on which the court  
 72 placed the child in state custody; and

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

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

75 (a) except as provided in Subsection (5)(b), beginning on day 61 after the day on which  
 76 the court places the child in state custody, if there is no existing child support order for the  
 77 child; or

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

81 [~~(5)~~ (6) (a) If the parents, a parent, or other obligated [~~person meets with the Office of~~  
 82 ~~Recovery Services]~~ individual contacts the office within 30 days [~~of the date of the hearing]~~  
 83 after the day on which the court places the child in state custody, the child support order may  
 84 not include a judgment for past due support for more than two months.

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

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

90 requirement; and]

91 (i) the court informs the parents, a parent, or other obligated individual, as described in  
92 Subsection (4)(b), and the parents, a parent, or other obligated individual fails to contact the  
93 office within 30 days after the day on which the court places the child in state custody; and

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

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

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

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

107 [~~(6)~~] (7) In collecting arrears, the [~~Office of Recovery Services~~] office shall comply  
108 with Section 62A-11-320 in setting a payment schedule or demanding payment in full.

109 [~~(7)~~] (8) Unless [~~otherwise ordered~~] a court orders otherwise, the parents, a parent, or  
110 other [~~person~~] obligated individual shall pay the child support to the [~~Office of Recovery~~  
111 ~~Services~~] office. The clerk of the court, the [~~Office of Recovery Services~~] office, or the  
112 Department of Human Services and its divisions shall have authority to receive periodic  
113 payments for the care and maintenance of the child, such as Social Security payments or  
114 railroad retirement payments made in the name of or for the benefit of the child.

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

119 (9) An existing child support order payable to a parent or other obligated [~~person~~]  
120 individual against whom a child support order has been issued under Subsection (3) shall be

121 assigned to the Department of Human Services as provided in Section [62A-1-117](#).

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

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

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

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

133 ~~[(ii)]~~ (b) the benefit described in Subsection (11)(a)~~[(i)]~~ is issued because of the ~~[parent~~  
134 ~~or other person's]~~ individual's disability, and not the child's disability~~[-]; and~~

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

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

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

143 (a) the individual's child support obligation was established under Subsection  
144 [78B-12-205\(6\)](#) or Section [78B-12-302](#); and

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

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

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

**Legislative Review Note  
Office of Legislative Research and General Counsel**