

## HB0112S01 compared with HB0112

~~{deleted text}~~ shows text that was in HB0112 but was deleted in HB0112S01.

Inserted text shows text that was not in HB0112 but was inserted into HB0112S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Christine F. Watkins proposes the following substitute bill:

### PAYMENTS FOR STATE CARE OF CHILDREN

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Christine F. Watkins**

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

---

#### 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 whose child is in state custody; and
- ▶ makes technical changes.

##### Money Appropriated in this Bill:

None

##### Other Special Clauses:

## HB0112S01 compared with HB0112

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:

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

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

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

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

(b) the individual makes a voluntary appearance; or

(c) the individual submits a waiver of service.

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

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

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

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

## HB0112S01 compared with HB0112

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

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

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

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

(a) make the referral within three working days after the day on which the court ~~{placed}~~ holds the ~~{child}~~ hearing described in ~~{state custody}~~ Subsection (2)(a); and

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

(i) the requirement to contact the office within 30 days after the day on which the court ~~{placed}~~ holds the ~~{child}~~ hearing described in ~~{state custody}~~ Subsection (2)(a); and

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

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

(a) except as provided in Subsection (5)(b), beginning on day 61 after the day on which the court ~~{places}~~ holds the ~~{child}~~ hearing described in ~~{state custody}~~ Subsection (2)(a), if there is no existing child support order for the child; or

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

## HB0112S01 compared with HB0112

child's home from state custody.

~~[(5)] (6)~~ (a) If the parents, a parent, or other obligated ~~[person meets with the Office of Recovery Services]~~ individual contacts the office within 30 days ~~[of the date of the hearing]~~ after the day on which the court ~~{places}~~ holds the ~~{child}~~ hearing described in ~~{state custody}~~ Subsection (2)(a), the child support order may not include a judgment for past due support for more than two months.

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

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

(i) the court informs the parents, a parent, or other obligated individual, as described in Subsection (4)(b), and the parents, a parent, or other obligated individual fails to contact the office within 30 days after the day on which the court {places} holds the {child} hearing described in {state custody} Subsection (2)(a); and

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

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

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

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

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

## HB0112S01 compared with HB0112

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

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

(9) An existing child support order payable to a parent or other [obligated {~~}}~~ person] individual ~~{ against whom a child support order has been issued under Subsection (3)}~~ shall be assigned to the Department of Human Services as provided in Section 62A-1-117.

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

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

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

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

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

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

(c) the individual provides the court and the office evidence that the individual meets

## HB0112S01 compared with HB0112

the requirements of Subsections (11)(a) and (b).

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

(a) the individual's child support obligation ~~{was}~~is established under Subsection 78B-12-205(6) or Section 78B-12-302; ~~{and}~~or

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

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

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

~~†~~

~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel†~~