

JUVENILE INCARCERATION SERVICES AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer Dailey-Provost

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies child support obligations for children in state custody.

Highlighted Provisions:

This bill:

▸ requires the Office of Recovery Services to provide payment plans for parents and obligated individuals with children in secure youth correctional facilities that have outstanding balances;

▸ prohibits the Office of Recovery Services from referring outstanding balances for parents and obligated individuals with children in secure youth correctional facilities to private debt collection agencies;

▸ prohibits the Office of Recovery Services from reporting outstanding balances for parents and obligated individuals with children in secure youth correctional facilities to consumer reporting agencies;

▸ provides that child support shall be waived or refunded for a child in a secure youth correctional facility that is acquitted or for whom charges are dismissed;

▸ amends the requirements for waiving a child support obligation; and

▸ make technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **78A-6-1106**, as last amended by Laws of Utah 2018, Chapter 56



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

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

35 **78A-6-1106. Child support obligation when custody of a child is vested in an**
36 **individual or institution.**

37 (1) As used in this section:

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

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

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

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

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

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

47 (3) Except as provided in Subsection (11), when a court places a child in state custody
48 or if the guardianship of the child has been granted to another party and an agreement for a
49 guardianship subsidy has been signed by the guardian, the court:

50 (a) shall order [~~the parents;~~] a parent[;] or other obligated individual to pay child
51 support for each month the child is in state custody or cared for under a grant of guardianship;
52 and

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

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

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

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

61 (b) inform [~~the parents,~~] a parent[;] or other obligated individual of:

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

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

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

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

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

72 (6) (a) If [~~the parents,~~] a parent[;] or other obligated individual contacts the office
73 within 30 days after the day on which the court holds the hearing described in Subsection
74 (2)(a), the child support order may not include a judgment for past due support for more than
75 two months.

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

78 (i) the court informs [~~the parents,~~] a parent[;] or other obligated individual, as
79 described in Subsection (4)(b), and the [~~parents, a~~] parent[;] or other obligated individual fails
80 to contact the office within 30 days after the day on which the court holds the hearing described
81 in Subsection (2)(a); and

82 (ii) the office took reasonable steps under the circumstances to contact the [~~parents,~~] parent[;]
83 or other obligated individual within 30 days after the last day on which the [~~parents, a~~] parent[;]
84 or other obligated individual was required to contact the office to facilitate the
85 establishment of a child support order.

86 (c) For purposes of Subsection (6)(b)(ii), the office is presumed to have taken
87 reasonable steps if the office:

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

90 order be established; or

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

94 (7) (a) In collecting arrears, the office shall comply with Section [62A-11-320](#) in setting
95 a payment schedule or demanding payment in full, except as otherwise provided in Subsection
96 (7)(b).

97 (b) For a parent or other obligated individual with a child in the custody of a secure
98 youth corrections facility, if the parent or other obligated individual has an outstanding child
99 support debt or obligation in accordance with this section, the office:

100 (i) shall provide a payment plan to the parent or obligated individual to assist the parent
101 or obligated individual in paying off the outstanding child support debt or obligation, including
102 any fees associated with that debt or obligation;

103 (ii) may not refer the outstanding child support debt or obligation to a private debt
104 collection agency for any amount of the outstanding balance, including any fees associated with
105 that debt or obligation; and

106 (iii) notwithstanding Section [62A-11-327](#), may not report the name of the parent or
107 obligated individual to a consumer reporting agency.

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

113 (9) An existing child support order payable to a parent or other individual shall be
114 assigned to the Department of Human Services as provided in Section [62A-1-117](#).

115 (10) (a) Subsections (4) through (9) do not apply if legal custody of a child is vested by
116 the court in an individual.

117 (b) If legal custody of a child is vested by the court in an individual, the court may
118 order the [~~parents, a~~] parent[;] or other obligated individual to pay child support to the
119 individual in whom custody is vested. In the same proceeding, the court shall inform [~~the~~
120 ~~parents,~~] a parent[;] or other obligated individual, verbally and in writing, of the requirement to

121 pay child support in accordance with Title 78B, Chapter 12, Utah Child Support Act.

122 (11) The court may not order an individual to pay child support for a child in state
123 custody if:

124 (a) the individual's only form of income is a government-issued disability benefit;

125 (b) the benefit described in Subsection (11)(a) is issued because of the individual's
126 disability, and not the child's disability; and

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

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

132 (a) the individual's child support obligation is established under Subsection
133 [78B-12-205\(6\)](#) or Section [78B-12-302](#); [or]

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

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

138 (ii) cash benefits received under General Assistance, social security income, or social
139 security disability income[-]; or

140 (c) for a child in the custody of a secure youth correction facility, the individual has an
141 adjusted gross income equal to or less than the federal poverty level.

142 (13) (a) If a child in the custody of a secure youth corrections facility is acquitted at
143 trial on all of the charges or all charges are dismissed against the child without a conviction, the
144 court shall waive any child support debt or obligation required in accordance with this section
145 for each parent or other obligated individual of the child.

146 (b) If a child in the custody of a secure youth corrections facility is acquitted at trial on
147 all of the charges or all charges are dismissed against the child without a conviction, the court
148 shall order a refund of any child support paid under this section by a parent or obligated
149 individual.