

HB0078S01 compared with HB0078

~~{deleted text}~~ shows text that was in HB0078 but was deleted in HB0078S01.

Inserted text shows text that was not in HB0078 but was inserted into HB0078S01.

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 Jennifer Dailey-Provost proposes the following substitute bill:

JUVENILE INCARCERATION SERVICES AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jennifer ~~{Dailey-Provost}~~Dailey-Provost

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

► adds definitions;

► requires a court to notify 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

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~~parents and obligated individuals with children in secure youth correctional facilities to consumer reporting agencies; when a child in state custody is acquitted of all charges or has all charges dismissed;~~

- ▶ provides that ~~a court shall waive or refund~~ child support ~~shall be waived or refunded~~ for a child in ~~(a secure youth correctional facility that)~~ ~~state custody if the child~~ is acquitted or ~~(for whom)~~ ~~has all~~ charges ~~are~~ dismissed;
- ▶ amends the requirements for ~~(waiving)~~ ~~the Office of Recovery Services to waive~~ a child support obligation; and
- ▶ ~~{make}~~ makes technical and conforming 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 2018, Chapter 56

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.

(c) "Federal poverty level" means the poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.

(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

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determine the financial support of a specified child;

- (b) the individual makes a voluntary appearance; or
- (c) the individual submits a waiver of service.

(3) Except as provided in Subsection (11), when 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:

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

[and]

(b) shall inform [the parents,] a parent[;] or other obligated 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.

(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 holds the hearing described in 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 holds the hearing described in 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 holds the hearing described in 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 child's home from state custody.

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

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two months.

(b) Notwithstanding 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 (3) if:

(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 holds the hearing described in Subsection (2)(a); and

(ii) the office took reasonable steps under the circumstances to contact the [parents,] parent[;] or other 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 a child support order.

(c) For purposes of Subsection (6)(b)(ii), the 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 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 individual regarding the requirement that a child support order be established.

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

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

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

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

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

Unless a court orders otherwise, [the parents,] a parent[;] or other obligated individual shall pay the child support to the office. The clerk of the court, the 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.

An existing child support order payable to a parent or other individual shall be assigned to the Department of Human Services as provided in Section 62A-1-117.

(10) (a) Subsections (4) through (9) 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 other obligated 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 other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12, Utah Child Support Act.

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

- (a) the individual's only form of income is a government-issued disability benefit;
- (b) the benefit described in Subsection (11)(a) is issued because of the individual's disability, and not the child's disability; and
- (c) the individual provides the court and the office evidence that the individual meets 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 is established under Subsection 78B-12-205(6) or Section 78B-12-302; [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

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Program; or

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

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

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

(b) If a child in ~~the~~ state custody ~~of a secure youth corrections facility~~ is acquitted at trial on all of the charges or all charges are dismissed against the child without a conviction, the court shall:

(i) notify the office of the acquittal or dismissal; and

(ii) order a refund of any child support paid under this section by a parent or obligated individual.

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