

HB0113S02 compared with HB0113S01

~~text~~ shows text that was in HB0113S01 but was deleted in HB0113S02.

text shows text that was not in HB0113S01 but was inserted into HB0113S02.

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Representative Brady Brammer proposes the following substitute bill:

SHARED MEDICAL COSTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends the Utah Child Support Act in relation to medical costs of pregnancy.

Highlighted Provisions:

This bill:

- ▶ defines terms; and
- ▶ requires an unmarried father to pay 50% of a mother's:
 - insurance premiums while she is pregnant; and
 - pregnancy-related medical costs, including the hospital birth of the child, that are not paid by another person.

Money Appropriated in this Bill:

None

Other Special Clauses:

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None

Utah Code Sections Affected:

AMENDS:

78B-12-102, as last amended by Laws of Utah 2018, Chapter 96

ENACTS:

78B-12-105.1, Utah Code Annotated 1953

78B-12-212.1, Utah Code Annotated 1953

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

Section 1. Section **78B-12-102** is amended to read:

78B-12-102. Definitions.

As used in this chapter:

- (1) "Adjusted gross income" means income calculated under Subsection 78B-12-204(1).
- (2) "Administrative agency" means the Office of Recovery Services or the Department of Human Services.
- (3) "Administrative order" means an order that has been issued by the Office of Recovery Services, the Department of Human Services, or an administrative agency of another state or other comparable jurisdiction with similar authority to that of the office.
- (4) "Base child support award" means the award that may be ordered and is calculated using the guidelines before additions for medical expenses and work-related child care costs.
- (5) "Base combined child support obligation table," "child support table," "base child support obligation table," "low income table," or "table" means the appropriate table in Part 3, Tables.
- (6) "Cash medical support" means an obligation to equally share all reasonable and necessary medical and dental expenses of children.
- (7) "Child" means:
 - (a) a son or daughter under the age of 18 years who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States;
 - (b) a son or daughter over the age of 18 years, while enrolled in high school during the normal and expected year of graduation and not otherwise emancipated, self-supporting,

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married, or a member of the armed forces of the United States; or

(c) a son or daughter of any age who is incapacitated from earning a living and, if able to provide some financial resources to the family, is not able to support self by own means.

(8) "Child support" means a base child support award, or a monthly financial award for uninsured medical expenses, ordered by a tribunal for the support of a child, including current periodic payments, arrearages that accrue under an order for current periodic payments, and sum certain judgments awarded for arrearages, medical expenses, and child care costs.

(9) "Child support order" or "support order" means a judgment, decree, or order of a tribunal whether interlocutory or final, whether or not prospectively or retroactively modifiable, whether incidental to a proceeding for divorce, judicial or legal separation, separate maintenance, paternity, guardianship, civil protection, or otherwise that:

(a) establishes or modifies child support;

(b) reduces child support arrearages to judgment; or

(c) establishes child support or registers a child support order under Chapter 14, Utah Uniform Interstate Family Support Act.

(10) "Child support services" or "IV-D child support services" means services provided pursuant to Part D of Title IV of the Social Security Act, 42 U.S.C. Sec. 651 et seq.

(11) "Court" means the district court or juvenile court.

(12) "Guidelines" means the directions for the calculation and application of child support in Part 2, Calculation and Adjustment.

(13) "Health care coverage" means coverage under which medical services are provided to a dependent child through:

(a) fee for service;

(b) a health maintenance organization;

(c) a preferred provider organization;

(d) any other type of private health insurance; or

(e) public health care coverage.

(14) (a) "Income" means earnings, compensation, or other payment due to an individual, regardless of source, whether denominated as wages, salary, commission, bonus, pay, allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive pay.

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(b) "Income" includes:

(i) all gain derived from capital assets, labor, or both, including profit gained through sale or conversion of capital assets;

(ii) interest and dividends;

(iii) periodic payments made under pension or retirement programs or insurance policies of any type;

(iv) unemployment compensation benefits;

(v) workers' compensation benefits; and

(vi) disability benefits.

(15) "Joint physical custody" means the child stays with each parent overnight for more than 30% of the year, and both parents contribute to the expenses of the child in addition to paying child support.

(16) "Medical expenses" means health and dental expenses and related insurance costs.

(17) "Obligee" means an individual, this state, another state, or another comparable jurisdiction to whom child support is owed or who is entitled to reimbursement of child support or public assistance.

(18) "Obligor" means a person owing a duty of support.

(19) "Office" means the Office of Recovery Services within the Department of Human Services.

(20) "Parent" includes a natural parent, or an adoptive parent.

(21) "Pregnancy expenses" means an amount equal to:

(a) the sum of a pregnant mother's:

(i) health insurance premiums while pregnant; and

(ii) medical costs related to the pregnancy, incurred after the date of conception and before the pregnancy ends; minus

(b) any portion of the amount described in Subsection (21)(a) that ~~is paid by a person other than:~~

~~(i) a court determines is equitable based on the totality of the circumstances, not including any amount paid by the mother or father of the child;~~ or

~~(ii) a relative of the mother or father, unless the relative is attempting to adopt the child.~~

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~~(22) "Relative" means:~~

- ~~(a) an adult who is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;~~
- ~~(b) a first cousin of the child's parent;~~
- ~~(c) an adult who is an adoptive parent of the child's sibling; or~~
- ~~(d) in the case of a child defined as an "Indian" under the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, "relative" also means an "extended family member" as defined by that statute.~~

[(21)] ~~(23)~~(22) "Split custody" means that each parent has physical custody of at least one of the children.

[(22)] ~~(24)~~(23) "State" includes a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

[(23)] ~~(25)~~(24) "Temporary" means a period of time that is projected to be less than 12 months in duration.

[(24)] ~~(26)~~(25) "Third party" means an agency or a person other than the biological or adoptive parent or a child who provides care, maintenance, and support to a child.

[(25)] ~~(27)~~(26) "Tribunal" means the district court, the Department of Human Services, Office of Recovery Services, or court or administrative agency of a state, territory, possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable domestic or foreign jurisdiction.

[(26)] ~~(28)~~(27) "Work-related child care costs" means reasonable child care costs for up to a full-time work week or training schedule as necessitated by the employment or training of a parent under Section 78B-12-215.

[(27)] ~~(29)~~(28) "Worksheets" means the forms used to aid in calculating the base child support award.

Section 2. Section **78B-12-105.1** is enacted to read:

78B-12-105.1. Duty of unmarried father to share pregnancy expenses.

(1) Except as otherwise provided in this section, an unmarried father of a child has a duty to pay 50% of the mother's pregnancy expenses.

(2) (a) If paternity is disputed, an unmarried father owes no duty under this section

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until the unmarried father's paternity is established.

(b) Once paternity is established, the unmarried father is subject to Subsection (1).

(3) (a) Any portion of a mother's pregnancy expenses paid by the mother or the unmarried father reduces that parent's 50% share under Subsection (1), not the total amount of pregnancy expenses.

(b) Subsection (3)(a) applies regardless of when the mother or unmarried father pays the pregnancy expense.

(~~3~~4) If a mother receives an abortion, as defined in Section 76-7-301, without the unmarried father's consent, the unmarried father owes no duty under this section, unless:

(a) the abortion is necessary to avert the death of the mother; or

(b) the mother was pregnant as a result of:

(i) rape, as described in Section 76-5-402;

(ii) rape of a child, as described in Section 76-5-402.1; or

(iii) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102.

(~~4~~5) Subsection (1) does not apply if a court apportions pregnancy expenses under Section 30-3-5.

(~~5~~6) A person may seek payment under Subsection (1) in accordance with Section 78B-12-113.

Section 3. Section **78B-12-212.1** is enacted to read:

78B-12-212.1. Pregnancy expenses.

If a person seeks payment under Section 78B-12-105.1 by providing documentation of payments, medical expenses, and insurance premiums, the district court shall, after review, order the payment of the expenses.