

Representative Brady Brammer proposes the following substitute bill:

SHARED MEDICAL COSTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brady Brammer

Senate Sponsor: Daniel McCay

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 a biological 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:

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



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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, 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,

59 whether incidental to a proceeding for divorce, judicial or legal separation, separate
60 maintenance, paternity, guardianship, civil protection, or otherwise that:

- 61 (a) establishes or modifies child support;
- 62 (b) reduces child support arrearages to judgment; or
- 63 (c) establishes child support or registers a child support order under Chapter 14, Utah
64 Uniform Interstate Family Support Act.

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

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

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

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

- 72 (a) fee for service;
- 73 (b) a health maintenance organization;
- 74 (c) a preferred provider organization;
- 75 (d) any other type of private health insurance; or
- 76 (e) public health care coverage.

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

81 (b) "Income" includes:

- 82 (i) all gain derived from capital assets, labor, or both, including profit gained through
83 sale or conversion of capital assets;
- 84 (ii) interest and dividends;
- 85 (iii) periodic payments made under pension or retirement programs or insurance
86 policies of any type;
- 87 (iv) unemployment compensation benefits;
- 88 (v) workers' compensation benefits; and
- 89 (vi) disability benefits.

90 (15) "Joint physical custody" means the child stays with each parent overnight for more

91 than 30% of the year, and both parents contribute to the expenses of the child in addition to
92 paying child support.

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

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

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

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

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

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

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

103 (i) health insurance premiums while pregnant; and

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

106 (b) any portion of the amount described in Subsection (21)(a) that a court determines is
107 equitable based on the totality of the circumstances, not including any amount paid by the mother
108 or father of the child.

109 [~~(21)~~] (22) "Split custody" means that each parent has physical custody of at least one of
110 the children.

111 [~~(22)~~] (23) "State" includes a state, territory, possession of the United States, the
112 District of Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other
113 comparable domestic or foreign jurisdiction.

114 [~~(23)~~] (24) "Temporary" means a period of time that is projected to be less than 12
115 months in duration.

116 [~~(24)~~] (25) "Third party" means an agency or a person other than the biological or
117 adoptive parent or a child who provides care, maintenance, and support to a child.

118 [~~(25)~~] (26) "Tribunal" means the district court, the Department of Human Services,
119 Office of Recovery Services, or court or administrative agency of a state, territory, possession
120 of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Native
121 American Tribe, or other comparable domestic or foreign jurisdiction.

122 [~~(26)~~] (27) "Work-related child care costs" means reasonable child care costs for up to

123 a full-time work week or training schedule as necessitated by the employment or training of a
124 parent under Section [78B-12-215](#).

125 ~~[(27)]~~ (28) "Worksheets" means the forms used to aid in calculating the base child
126 support award.

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

128 **78B-12-105.1. Duty of biological father to share pregnancy expenses.**

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

131 (2) (a) If paternity is disputed, a biological father owes no duty under this section until
132 the biological father's paternity is established.

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

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

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

139 (4) If a mother receives an abortion, as defined in Section [76-7-301](#), without the
140 biological father's consent, the biological father owes no duty under this section, unless:

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

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

143 (i) rape, as described in Section [76-5-402](#);

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

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

146 (5) Subsection (1) does not apply if a court apportions pregnancy expenses under
147 Section [30-3-5](#).

148 (6) A person may seek payment under Subsection (1) in accordance with Section
149 [78B-12-113](#).

150 (7) Nothing in this section or Section [78B-12-212.1](#) requires a person to separately bill
151 a biological father for pregnancy expenses.

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

153 **78B-12-212.1. Pregnancy expenses.**

154 If a person seeks payment under Section [78B-12-105.1](#) by providing documentation of

155 payments, medical expenses, and insurance premiums, the district court shall, after review, order
156 the payment of the expenses.