

CHILD SUPPORT INSURANCE COVERAGE AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd D. Weiler

House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill amends the Utah Child Support Act as it relates to insurance coverage for a child.

Highlighted Provisions:

This bill:

- ▶ mandates that a child support order include language requiring both parents to provide health care and insurance coverage for the medical expenses of a child;
- ▶ requires both parents to provide health care and insurance coverage for the medical expenses of a child even if language to that effect does not appear in the child support order;
- ▶ authorizes a court to deviate from these requirements only for good cause or agreement of the parents; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-5.4, as last amended by Laws of Utah 2022, Chapter 263

78B-12-102, as last amended by Laws of Utah 2021, Chapter 111

78B-12-212, as last amended by Laws of Utah 2022, Chapter 263

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

32 Section 1. Section 30-3-5.4 is amended to read:

33 **30-3-5.4. Designation of primary and secondary health, dental, or hospital**
34 **insurance coverage.**35 (1) As used in this section, "health, hospital, or dental insurance plan" has the same
36 meaning as "health care insurance" as defined in Section 31A-1-301.37 (2) (a) A decree of divorce rendered in accordance with Section 30-3-5, an order for
38 medical expenses rendered in accordance with Section 78B-12-212, and an administrative
39 order under Section 62A-11-326 shall, in accordance with Subsection (2)(b)(ii), designate
40 which parent's health, hospital, or dental insurance plan is primary coverage and which parent's
41 health, hospital, or dental insurance plan is secondary coverage for a dependent child.

42 (b) The provisions of the court order required by Subsection (2)(a) shall:

43 (i) take effect if at any time a dependent child is covered by both parents' health,
44 hospital, or dental insurance plans; and

45 (ii) include the following language:

46 "If, at any point in time, a dependent child is covered by the health, hospital, or dental
47 insurance plans of both parents, the health, hospital, or dental insurance plan of (Parent's
48 Name) shall be primary coverage for the dependent child and the health, hospital, or dental
49 insurance plan of (Other Parent's Name) shall be secondary coverage for the dependent child.50 If a parent remarries and his or her dependent child is not covered by that parent's health,
51 hospital, or dental insurance plan but is covered by a step-parent's plan, the health, hospital, or
52 dental insurance plan of the step-parent shall be treated as if it is the plan of the remarried
53 parent and shall retain the same designation as the primary or secondary plan of the dependent
54 child."55 (c) A decree of divorce or related court order may not modify the language required by
56 Subsection (2)(b)(ii).

57 (d) Notwithstanding Subsection (2)(c), a court may allocate the payment of medical

58 expenses including co-payments, deductibles, and co-insurance not covered by health insurance
59 between the parents in accordance with Subsections 30-3-5(3)(a) and [~~78B-12-212(7)~~]
60 ~~78B-12-212(2)(e)~~.

61 (3) In designating primary coverage pursuant to Subsection (2), a court may take into
62 account:

- 63 (a) the birth dates of the parents;
- 64 (b) a requirement in a court order, if any, for one of the parents to maintain health
65 insurance coverage for a dependent child;
- 66 (c) the parent with physical custody of the dependent child; or
- 67 (d) any other factor the court considers relevant.

68 Section 2. Section **78B-12-102** is amended to read:

69 **78B-12-102. Definitions.**

70 As used in this chapter:

71 (1) "Adjusted gross income" means income calculated under Subsection
72 ~~78B-12-204(1)~~.

73 (2) "Administrative agency" means the Office of Recovery Services or the Department
74 of Health and Human Services.

75 (3) "Administrative order" means an order that has been issued by the Office of
76 Recovery Services, the Department of Health and Human Services, or an administrative agency
77 of another state or other comparable jurisdiction with similar authority to that of the office.

78 (4) "Base child support award" means the award that may be ordered and is calculated
79 using the guidelines before additions for medical expenses and work-related child care costs.

80 (5) "Base combined child support obligation table," "child support table," "base child
81 support obligation table," "low income table," or "table" means the appropriate table in Part 3,
82 Tables.

83 (6) "Cash medical support" means an obligation to equally share all reasonable and
84 necessary medical and dental expenses of children.

85 (7) "Child" means:

86 (a) a son or daughter under the age of 18 years who is not otherwise emancipated,
87 self-supporting, married, or a member of the armed forces of the United States;

88 (b) a son or daughter over the age of 18 years, while enrolled in high school during the
89 normal and expected year of graduation and not otherwise emancipated, self-supporting,
90 married, or a member of the armed forces of the United States; or

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

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

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

101 (a) establishes or modifies child support;

102 (b) reduces child support arrearages to judgment; or

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

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

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

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

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

112 (a) fee for service;

113 (b) a health maintenance organization;

114 (c) a preferred provider organization;

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

116 (e) public health care coverage.

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

121 (b) "Income" includes:

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

124 (ii) interest and dividends;

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

127 (iv) unemployment compensation benefits;

128 (v) workers' compensation benefits; and

129 (vi) disability benefits.

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

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

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

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

138 (19) "Office" means the Office of Recovery Services within the Department of Health
139 and Human Services.

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

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

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

143 (i) health insurance premiums while pregnant that are not paid by an employer or
144 government program; and

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

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

150 (22) "Split custody" means that each parent has physical custody of at least one of the
151 children.

152 (23) "State" includes a state, territory, possession of the United States, the District of
153 Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable
154 domestic or foreign jurisdiction.

155 (24) "Temporary" means a period of time that is projected to be less than 12 months in
156 duration.

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

159 (26) "Tribunal" means the district court, the Department of Health and Human
160 Services, Office of Recovery Services, or court or administrative agency of a state, territory,
161 possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico,
162 Native American Tribe, or other comparable domestic or foreign jurisdiction.

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

166 (28) "Worksheets" means the forms used to aid in calculating the base child support
167 award.

168 Section 3. Section **78B-12-212** is amended to read:

169 **78B-12-212. Medical expenses.**

170 (1) ~~[A]~~ Except as provided in Subsection (3), a child support order issued or modified
171 in this state on or after [July 1, 2018] May 3, 2023, shall require compliance with [this section]
172 the requirements described in Subsection (2) as of the effective date of the child support order
173 [unless the court makes specific findings as to good cause to deviate from the requirements of
174 this section].

175 (2) ~~[(a) The court]~~ A child support order shall:

176 (a) order that the parents provide health care coverage for the medical expenses of a
177 [minor child be provided by a parent.] child;

178 (b) ~~[The court shall order that a parent]~~ order that the parents provide insurance for the
179 medical expenses of a [minor] child if insurance is available to [that parent] the parents at a
180 reasonable cost[.];

181 (c) ~~[The court shall, in accordance with Section 30-3-5]~~ in accordance with Subsection
182 30-3-5(3)(b)(ii) and Section 30-3-5.4, designate which health, hospital, or dental insurance plan
183 is primary and which health, hospital, or dental insurance plan is secondary if, at any time, a
184 [dependent] child is covered by both parents' health, hospital, or dental insurance plans[.];

185 (d) require each parent to share equally the out-of-pocket costs of the premium actually
186 paid by a parent for the child's portion of insurance; and

187 (e) in accordance with Subsection 30-3-5(3)(a), include a provision that requires each
188 parent to equally share all reasonable and necessary uninsured and unreimbursed medical and
189 dental expenses incurred for a child, including co-payments, co-insurance, and deductibles.

190 (3) A court may deviate from the requirements described in Subsection (2) if:

191 (a) the court makes specific findings establishing good cause for the deviation; or

192 (b) subject to the court's approval, the parents agree which parent shall provide
193 insurance for the child.

194 ~~[(3)]~~ (4) In determining [which parent shall be ordered to maintain insurance for
195 medical expenses] whether to take the action described in Subsection (3), the court [or
196 administrative agency] may consider [the]:

197 (a) the reasonableness of the cost;

198 (b) the availability of a group insurance policy;

199 (c) the coverage of the policy; [~~and~~] or

200 (d) the preference of the custodial parent.

201 (5) Subject to Subsection (3), if a child support order does not contain the requirements
202 described in Subsection (2):

203 (a) the parents are nonetheless subject to the requirements described in Subsection (2),
204 as applicable; and

205 (b) for purposes of Subsection (2)(c), the insurance plan of the parent whose birthday
206 falls first in the calendar year is primary, and the insurance plan of the parent whose birthday
207 falls second in the calendar year is secondary.

208 [~~(4) The order shall require each parent to share equally the out-of-pocket costs of the~~
209 ~~premium actually paid by a parent for the child's portion of insurance unless the court finds~~
210 ~~good cause to order otherwise.]~~

211 [(5)] (6) (a) The parent who provides [~~the~~] insurance [~~coverage~~] may receive credit
212 against the base child support award or recover the other parent's share of the child's portion of
213 the premium.

214 (b) If the parent does not have insurance but another member of the parent's household
215 provides insurance [~~coverage~~] for the child, the parent may receive credit against the base child
216 support award or recover the other parent's share of the child's portion of the premium.

217 [~~(6)~~] (7) (a) The child's portion of the premium is a per capita share of the premium
218 actually paid.

219 (b) The premium expense for a child shall be calculated by dividing the premium
220 amount by the number of persons covered under the policy and multiplying the result by the
221 number of children in the instant case.

222 [~~(7) The order shall, in accordance with Subsection 30-3-5(3)(a), include a cash~~
223 ~~medical support provision that requires each parent to equally share all reasonable and~~
224 ~~necessary uninsured and unreimbursed medical and dental expenses incurred for a dependent~~
225 ~~child, including deductibles and copayments unless the court finds good cause to order~~

226 otherwise.]

227 (8) (a) The parent [~~ordered to maintain~~] maintaining health care coverage or insurance
228 shall provide verification of coverage to the other parent, or to the Office of Recovery Services
229 under Title IV of the Social Security Act, 42 U.S.C. Sec. 601 et seq., upon initial enrollment of
230 the [~~dependent~~] child, and after initial enrollment on or before January 2 of each calendar year.

231 (b) The parent shall notify the other parent, or the Office of Recovery Services under
232 Title IV of the Social Security Act, 42 U.S.C. Sec. 601 et seq., of any change of insurance
233 carrier, premium, or benefits within 30 calendar days of the date the parent first knew or should
234 have known of the change.

235 (9) A parent who incurs medical expenses shall provide written verification of the cost
236 and payment of medical expenses to the other parent within 30 days of payment.

237 (10) In addition to any other sanctions provided by the court, a parent incurring
238 medical expenses may be denied the right to receive credit for the expenses or to recover the
239 other parent's share of the expenses if that parent fails to comply with Subsections (8) and (9).