

HB0129S01 compared with HB0129

~~deleted text~~ shows text that was in HB0129 but was deleted in HB0129S01.

inserted text shows text that was not in HB0129 but was inserted into HB0129S01.

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Representative Christine F. Watkins proposes the following substitute bill:

CHILD SUPPORT REQUIREMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Christine F. Watkins

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to child support obligations for a child in the custody of the Division of Child and Family Services.

Highlighted Provisions:

This bill:

- ▶ provides that a parent or other obligated individual is not responsible for child support for a child who is in the custody of the Division of Child and Family Services; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

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None

Utah Code Sections Affected:

AMENDS:

78A-6-356, as last amended by Laws of Utah 2023, Chapter 330

80-2-301, as last amended by Laws of Utah 2023, Chapter 280

80-2-303, as renumbered and amended by Laws of Utah 2022, Chapter 334

REPEALS:

80-6-803, as renumbered and amended by Laws of Utah 2021, Chapter 261

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

Section 1. Section **78A-6-356** is amended to read:

78A-6-356. 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 secure care.

(2) Under this section, a juvenile 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 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 (1) ~~or (12)~~, ~~when a juvenile 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 juvenile court:

(a) shall order the child's parent, guardian, 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;

(b) shall inform the child's parent, guardian, 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

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

(4) When a juvenile 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 juvenile court shall:

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

(b) inform the child's parent, guardian, or other obligated individual of:

(i) the requirement to contact the office within 30 days after the day on which the juvenile 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 juvenile 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 child's parent, guardian, 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 two months.

(b) Notwithstanding Subsections (5) and (6)(a), the juvenile 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 child's parent, guardian, or other obligated individual, as described in Subsection (4)(b), and the parent, guardian, 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 child's parent, guardian, or other obligated individual within 30 days after the last day on which the parent, guardian, or other obligated individual was required to contact the office to facilitate the

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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 child's parent, guardian, 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 child's parent, guardian, or other obligated individual regarding the requirement that a child support order be established.

(7) In collecting arrears, the office shall comply with Section 26B-9-219 in setting a payment schedule or demanding payment in full.

(8) (a) Unless a court orders otherwise, the child's parent, guardian, or other obligated individual shall pay the child support to the office.

(b) The clerk of the juvenile court, the office, or the department and the department's 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.

(9) An existing child support order payable to a parent or other individual shall be assigned to the department as provided in Section 26B-9-111.

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

(b) (i) If legal custody of a child is vested by the juvenile court in an individual, the court may order the child's parent, guardian, or other obligated individual to pay child support to the individual in whom custody is vested.

(ii) In the same proceeding, the juvenile court shall inform the child's parent, guardian, 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 juvenile 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

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disability, and not the child's disability; and

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

(12) ~~[(a)]~~ The child's parent or another obligated individual is not responsible for child support for the period of time that the child is removed from the child's home by the Division of Child and Family Services ~~[if:]~~.

~~[(i) the juvenile court finds that there were insufficient grounds for the removal of the child; and]~~

~~[(ii) the child is returned to the home of the child's parent or guardian based on the finding described in Subsection (12)(a)(i):]~~

~~[(b) If the juvenile court finds insufficient grounds for the removal of the child under Subsection (12)(a), but that the child is to remain in state custody, the juvenile court shall order that the child's parent or another obligated individual is responsible for child support beginning on the day on which it became improper to return the child to the home of the child's parent or guardian.]~~

(13) After the juvenile 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 juvenile court if:

(a) the individual's child support obligation is established under the low income table in Section 78B-12-302 or 78B-12-304; 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 Program; or

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

Section 2. Section **80-2-301** is amended to read:

80-2-301. Division responsibilities.

(1) The division is the child, youth, and family services authority of the state.

(2) The division shall:

(a) administer services to minors and families, including:

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- (i) child welfare services;
 - (ii) domestic violence services; and
 - (iii) all other responsibilities that the Legislature or the executive director of the department may assign to the division;
- (b) provide the following services:
- (i) financial and other assistance to an individual adopting a child with special needs under Sections 80-2-806 through 80-2-809, not to exceed the amount the division would provide for the child as a legal ward of the state;
 - (ii) non-custodial and in-home services in accordance with Section 80-2-306, including:
 - (A) services designed to prevent family break-up; and
 - (B) family preservation services;
 - (iii) reunification services to families whose children are in substitute care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
 - (iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;
 - (v) shelter care in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
 - (vi) domestic violence services, in accordance with the requirements of federal law;
 - (vii) protective services to victims of domestic violence and the victims' children, in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
 - (viii) substitute care for dependent, abused, and neglected children;
 - (ix) services for minors who are victims of human trafficking or human smuggling, as described in Sections 76-5-308 through 76-5-310.1, or who have engaged in prostitution or sexual solicitation, as defined in Sections 76-10-1302 and 76-10-1313; and
 - (x) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child;
- (c) establish standards for all:

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- (i) contract providers of out-of-home care for minors and families;
- (ii) facilities that provide substitute care for dependent, abused, or neglected children placed in the custody of the division; and
- (iii) direct or contract providers of domestic violence services described in Subsection (2)(b)(vi);
- (d) have authority to:
 - (i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 80-2-405; and
 - (ii) approve facilities that meet the standards established under Subsection (2)(c) to provide substitute care for dependent, abused, or neglected children placed in the custody of the division;
- (e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;
- (f) in accordance with Subsection (5)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, or dependent children, in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child, unless administration is expressly vested in another division or department of the state;
- (g) cooperate with the Workforce Development Division within the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;
- (h) compile relevant information, statistics, and reports on child and family service matters in the state;
- (i) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 80-2-1102 and 80-2-1103;
- (j) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;
- (k) enter into contracts for programs designed to reduce the occurrence or recurrence of abuse and neglect in accordance with Section 80-2-503;
- ~~(l) seek reimbursement of funds the division expends on behalf of a child in the protective custody, temporary custody, or custody of the division, from the child's parent or~~

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~~guardian in accordance with an order for child support under Section 78A-6-356;~~

~~(m)~~ (l) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, under Section 80-3-409, and promote adoption of the children;

~~(n)~~ (m) subject to Subsections (5) and (7), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test;

~~(o)~~ (n) report before November 30, 2020, and every third year thereafter, to the Social Services Appropriations Subcommittee regarding:

(i) the daily reimbursement rate that is provided to licensed foster parents based on level of care;

(ii) the amount of money spent on daily reimbursements for licensed foster parents during the previous fiscal year; and

(iii) any recommended changes to the division's budget to support the daily reimbursement rates described in Subsection ~~(2)(o)(i)~~ (2)(n)(i); and

~~(p)~~ (o) perform other duties and functions required by law.

(3) (a) The division may provide, directly or through contract, services that include the following:

(i) adoptions;

(ii) day-care services;

(iii) out-of-home placements for minors;

(iv) health-related services;

(v) homemaking services;

(vi) home management services;

(vii) protective services for minors;

(viii) transportation services; or

(ix) domestic violence services.

(b) The division shall monitor services provided directly by the division or through contract to ensure compliance with applicable law and rules made in accordance with Title

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63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) (i) Except as provided in Subsection (3)(c)(ii), if the division provides a service through a private contract, the division shall post the name of the service provider on the division's website.

(ii) Subsection (3)(c)(i) does not apply to a foster parent placement.

(4) (a) The division may:

(i) receive gifts, grants, devises, and donations;

(ii) encourage merchants and service providers to:

(A) donate goods or services; or

(B) provide goods or services at a nominal price or below cost;

(iii) distribute goods to applicants or consumers of division services free or for a nominal charge and tax free; and

(iv) appeal to the public for funds to meet needs of applicants or consumers of division services that are not otherwise provided by law, including Sub-for-Santa programs, recreational programs for minors, and requests for household appliances and home repairs.

(b) If requested by the donor and subject to state and federal law, the division shall use a gift, grant, devise, donation, or proceeds from the gift, grant, devise, or donation for the purpose requested by the donor.

(5) (a) In carrying out the requirements of Subsection (2)(f), the division shall:

(i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in Subsection (5)(a)(ii), within the division's budget.

(b) If an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (2)(n), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

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- (ii) the individual is a participant in a drug court; or
- (iii) the court finds that the individual is an indigent individual.

(6) Except to the extent provided by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division is not required to investigate domestic violence in the presence of a child, as described in Section 76-5-114.

(7) (a) Except as provided in Subsection (7)(b), the division may not:

(i) require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo; or

(ii) refer an individual who is receiving services from the division for drug testing by means of a hair, fingernail, or saliva test that is administered to detect the presence of drugs.

(b) Notwithstanding Subsection (7)(a)(ii), the division may refer an individual who is receiving services from the division for drug testing by means of a saliva test if:

(i) the individual consents to drug testing by means of a saliva test; or

(ii) the court, based on a finding that a saliva test is necessary in the circumstances, orders the individual to complete drug testing by means of a saliva test.

Section 3. Section **80-2-303** is amended to read:

80-2-303. Division enforcement authority -- Attorney general responsibilities.

(1) The division shall take legal action that is necessary to enforce this chapter and Chapter 2a, Removal and Protective Custody of a Child.

(2) (a) Subject to Section 67-5-17 and the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights, relating to protection or custody of an abused, neglected, or dependent minor and the termination of parental rights.

(b) The attorney general may contract with the local county attorney to enforce this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights.

(c) It is the responsibility of the attorney general's office to:

(i) advise the division regarding decisions to remove a minor from the minor's home;

(ii) represent the division in all court and administrative proceedings related to abuse, neglect, or dependency including, but not limited to, shelter hearings, dispositional hearings,

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dispositional review hearings, periodic review hearings, and petitions for termination of parental rights; and

(iii) be available to and advise child welfare caseworkers on an ongoing basis.

(d) (i) The attorney general shall designate no less than 16 full-time attorneys to advise and represent the division in abuse, neglect, and dependency proceedings, including petitions for termination of parental rights.

(ii) The attorneys described in Subsection (2)(d)(i) shall devote full time and attention to the representation described in Subsection (2)(d)(i) and, insofar as it is practicable, be housed in or near various offices of the division statewide.

(3) (a) The attorney general's office shall represent the division in an action[-:]

~~[(a)]~~ involving a minor who has not been adjudicated as abused or neglected, but who is placed in the custody of the division by the juvenile court primarily on the basis of delinquent behavior or a status offense[; or].

~~[(b) for reimbursement of funds from a parent or guardian under Subsection 80-2-301(2)(1).]~~

~~[(c)]~~ (b) This section does not affect the responsibility of the county attorney or district attorney to represent the state in the matters described in Subsection (3)(a).

Section 4. Repealer.

This bill repeals:

Section 80-6-803, Cost of support and maintenance of a juvenile offender --

Responsibility.

Section ~~(4)~~5. **Effective date.**

This bill takes effect on May 1, 2024.