

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:

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

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



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

29 **78A-6-356. Child support obligation when custody of a child is vested in an**
30 **individual or institution.**

31 (1) As used in this section:

32 (a) "Office" means the Office of Recovery Services.

33 (b) "State custody" means that a child is in the custody of a state department, division,
34 or agency, including secure care.

35 (2) Under this section, a juvenile court may not issue a child support order against an
36 individual unless:

37 (a) the individual is served with notice that specifies the date and time of a hearing to
38 determine the financial support of a specified child;

39 (b) the individual makes a voluntary appearance; or

40 (c) the individual submits a waiver of service.

41 (3) Except as provided in Subsection (11) or (12), when a juvenile court places a child
42 in state custody or if the guardianship of the child has been granted to another party and an
43 agreement for a guardianship subsidy has been signed by the guardian, the juvenile court:

44 (a) shall order the child's parent, guardian, or other obligated individual to pay child
45 support for each month the child is in state custody or cared for under a grant of guardianship;

46 (b) shall inform the child's parent, guardian, or other obligated individual, verbally and
47 in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12,
48 Utah Child Support Act; and

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

50 (4) When a juvenile court chooses to refer a case to the office to determine support
51 obligation amounts in accordance with Title 78B, Chapter 12, Utah Child Support Act, the
52 juvenile court shall:

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

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

56 (i) the requirement to contact the office within 30 days after the day on which the
57 juvenile court holds the hearing described in Subsection (2)(a); and

58 (ii) the penalty described in Subsection (6) for failure to contact the office.

59 (5) Liability for child support ordered under Subsection (3) shall accrue:

60 (a) except as provided in Subsection (5)(b), beginning on day 61 after the day on which
61 the juvenile court holds the hearing described in Subsection (2)(a) if there is no existing child
62 support order for the child; or

63 (b) beginning on the day the child is removed from the child's home, including time
64 spent in detention or sheltered care, if the child is removed after having been returned to the
65 child's home from state custody.

66 (6) (a) If the child's parent, guardian, or other obligated individual contacts the office
67 within 30 days after the day on which the court holds the hearing described in Subsection
68 (2)(a), the child support order may not include a judgment for past due support for more than
69 two months.

70 (b) Notwithstanding Subsections (5) and (6)(a), the juvenile court may order the
71 liability of support to begin to accrue from the date of the proceeding referenced in Subsection
72 (3) if:

73 (i) the court informs the child's parent, guardian, or other obligated individual, as
74 described in Subsection (4)(b), and the parent, guardian, or other obligated individual fails to
75 contact the office within 30 days after the day on which the court holds the hearing described in
76 Subsection (2)(a); and

77 (ii) the office took reasonable steps under the circumstances to contact the child's
78 parent, guardian, or other obligated individual within 30 days after the last day on which the
79 parent, guardian, or other obligated individual was required to contact the office to facilitate the
80 establishment of a child support order.

81 (c) For purposes of Subsection (6)(b)(ii), the office is presumed to have taken
82 reasonable steps if the office:

83 (i) has a signed, returned receipt for a certified letter mailed to the address of the child's
84 parent, guardian, or other obligated individual regarding the requirement that a child support
85 order be established; or

86 (ii) has had a documented conversation, whether by telephone or in person, with the
87 child's parent, guardian, or other obligated individual regarding the requirement that a child
88 support order be established.

89 (7) In collecting arrears, the office shall comply with Section [26B-9-219](#) in setting a

90 payment schedule or demanding payment in full.

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

93 (b) The clerk of the juvenile court, the office, or the department and the department's
94 divisions shall have authority to receive periodic payments for the care and maintenance of the
95 child, such as social security payments or railroad retirement payments made in the name of or
96 for the benefit of the child.

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

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

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

104 (ii) In the same proceeding, the juvenile court shall inform the child's parent, guardian,
105 or other obligated individual, verbally and in writing, of the requirement to pay child support in
106 accordance with Title 78B, Chapter 12, Utah Child Support Act.

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

109 (a) the individual's only form of income is a government-issued disability benefit;

110 (b) the benefit described in Subsection (11)(a) is issued because of the individual's
111 disability, and not the child's disability; and

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

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

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

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

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

126 (13) After the juvenile court or the office establishes an individual's child support
127 obligation ordered under Subsection (3), the office shall waive the obligation without further
128 order of the juvenile court if:

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

131 (b) the individual's only source of income is a means-tested, income replacement
132 payment of aid, including:

133 (i) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment
134 Program; or

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

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

138 **80-2-301. Division responsibilities.**

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

140 (2) The division shall:

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

142 (i) child welfare services;

143 (ii) domestic violence services; and

144 (iii) all other responsibilities that the Legislature or the executive director of the
145 department may assign to the division;

146 (b) provide the following services:

147 (i) financial and other assistance to an individual adopting a child with special needs
148 under Sections 80-2-806 through 80-2-809, not to exceed the amount the division would
149 provide for the child as a legal ward of the state;

150 (ii) non-custodial and in-home services in accordance with Section 80-2-306,
151 including:

- 152 (A) services designed to prevent family break-up; and
- 153 (B) family preservation services;
- 154 (iii) reunification services to families whose children are in substitute care in
155 accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and
156 Chapter 3, Abuse, Neglect, and Dependency Proceedings;
- 157 (iv) protective supervision of a family, upon court order, in an effort to eliminate abuse
158 or neglect of a child in that family;
- 159 (v) shelter care in accordance with this chapter, Chapter 2a, Removal and Protective
160 Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings;
- 161 (vi) domestic violence services, in accordance with the requirements of federal law;
- 162 (vii) protective services to victims of domestic violence and the victims' children, in
163 accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, and
164 Chapter 3, Abuse, Neglect, and Dependency Proceedings;
- 165 (viii) substitute care for dependent, abused, and neglected children;
- 166 (ix) services for minors who are victims of human trafficking or human smuggling, as
167 described in Sections [76-5-308](#) through [76-5-310.1](#), or who have engaged in prostitution or
168 sexual solicitation, as defined in Sections [76-10-1302](#) and [76-10-1313](#); and
- 169 (x) training for staff and providers involved in the administration and delivery of
170 services offered by the division in accordance with this chapter and Chapter 2a, Removal and
171 Protective Custody of a Child;
- 172 (c) establish standards for all:
 - 173 (i) contract providers of out-of-home care for minors and families;
 - 174 (ii) facilities that provide substitute care for dependent, abused, or neglected children
175 placed in the custody of the division; and
 - 176 (iii) direct or contract providers of domestic violence services described in Subsection
177 (2)(b)(vi);
- 178 (d) have authority to:
 - 179 (i) contract with a private, nonprofit organization to recruit and train foster care
180 families and child welfare volunteers in accordance with Section [80-2-405](#); and
 - 181 (ii) approve facilities that meet the standards established under Subsection (2)(c) to
182 provide substitute care for dependent, abused, or neglected children placed in the custody of the

183 division;

184 (e) cooperate with the federal government in the administration of child welfare and
185 domestic violence programs and other human service activities assigned by the department;

186 (f) in accordance with Subsection (5)(a), promote and enforce state and federal laws
187 enacted for the protection of abused, neglected, or dependent children, in accordance with this
188 chapter and Chapter 2a, Removal and Protective Custody of a Child, unless administration is
189 expressly vested in another division or department of the state;

190 (g) cooperate with the Workforce Development Division within the Department of
191 Workforce Services in meeting the social and economic needs of an individual who is eligible
192 for public assistance;

193 (h) compile relevant information, statistics, and reports on child and family service
194 matters in the state;

195 (i) prepare and submit to the department, the governor, and the Legislature reports of
196 the operation and administration of the division in accordance with the requirements of
197 Sections 80-2-1102 and 80-2-1103;

198 (j) within appropriations from the Legislature, provide or contract for a variety of
199 domestic violence services and treatment methods;

200 (k) enter into contracts for programs designed to reduce the occurrence or recurrence of
201 abuse and neglect in accordance with Section 80-2-503;

202 ~~[(l) seek reimbursement of funds the division expends on behalf of a child in the
203 protective custody, temporary custody, or custody of the division, from the child's parent or
204 guardian in accordance with an order for child support under Section 78A-6-356;]~~

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

207 (i) have a permanency goal of adoption; or

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

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

213 ~~[(o)]~~ (n) report before November 30, 2020, and every third year thereafter, to the Social

214 Services Appropriations Subcommittee regarding:

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

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

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

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

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

224 (i) adoptions;

225 (ii) day-care services;

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

227 (iv) health-related services;

228 (v) homemaking services;

229 (vi) home management services;

230 (vii) protective services for minors;

231 (viii) transportation services; or

232 (ix) domestic violence services.

233 (b) The division shall monitor services provided directly by the division or through
234 contract to ensure compliance with applicable law and rules made in accordance with Title
235 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

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

240 (4) (a) The division may:

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

242 (ii) encourage merchants and service providers to:

243 (A) donate goods or services; or

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

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

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

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

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

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

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

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

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

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

266 (ii) the individual is a participant in a drug court; or

267 (iii) the court finds that the individual is an indigent individual.

268 (6) Except to the extent provided by rules made in accordance with Title 63G, Chapter
269 3, Utah Administrative Rulemaking Act, the division is not required to investigate domestic
270 violence in the presence of a child, as described in Section [76-5-114](#).

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

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

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

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

- 278 (i) the individual consents to drug testing by means of a saliva test; or
- 279 (ii) the court, based on a finding that a saliva test is necessary in the circumstances,
280 orders the individual to complete drug testing by means of a saliva test.

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

282 **80-2-303. Division enforcement authority -- Attorney general responsibilities.**

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

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

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

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

- 294 (i) advise the division regarding decisions to remove a minor from the minor's home;
- 295 (ii) represent the division in all court and administrative proceedings related to abuse,
296 neglect, or dependency including, but not limited to, shelter hearings, dispositional hearings,
297 dispositional review hearings, periodic review hearings, and petitions for termination of
298 parental rights; and

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

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

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

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

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

310 [~~(b)~~] for reimbursement of funds from a parent or guardian under Subsection
311 ~~80-2-301(2)(1)~~.]

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

314 Section 4. **Effective date.**

315 This bill takes effect on May 1, 2024.