

CHILD SUPPORT AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim F. Coleman

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to child support.

Highlighted Provisions:

This bill:

- ▶ addresses definitions;
- ▶ addresses when child support obligation ends; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-11-303, as last amended by Laws of Utah 2008, Chapters 3 and 382

78B-12-102, as last amended by Laws of Utah 2015, Chapter 45

78B-12-219, as renumbered and amended by Laws of Utah 2008, Chapter 3

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

Section 1. Section **62A-11-303** is amended to read:

62A-11-303. Definitions.



28 As used in this part:

29 (1) "Adjudicative proceeding" means an action or proceeding of the office conducted in
30 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

31 (2) "Administrative order" means an order that has been issued by the office, the
32 department, or an administrative agency of another state or other comparable jurisdiction with
33 similar authority to that of the office.

34 (3) "Assistance" or "public assistance" means the same as that term is defined in
35 Section 62A-11-103.

36 (4) "Business day" means a day on which state offices are open for regular business.

37 (5) "Child" means:

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

40 (b) a son or daughter ~~[over the age of 18 years,]~~ 18 years of age or older while enrolled
41 in high school during the ~~[normal and expected year of graduation]~~ time period the son or
42 daughter is eligible to be enrolled in high school and not otherwise emancipated,
43 self-supporting, married, or a member of the armed forces of the United States; or

44 (c) a son or daughter of any age who is incapacitated from earning a living and is
45 without sufficient means.

46 (6) "Child support" means the same as that term is defined in Section 62A-11-401.

47 (7) "Child support guidelines" or "guidelines" means the same as that term is defined in
48 Section 78B-12-102.

49 (8) "Child support order" or "support order" means the same as that term is defined in
50 Section 62A-11-401.

51 (9) "Child support services" or "IV-D child support services" means the same as that
52 term is defined in Section 62A-11-103.

53 (10) "Court order" means a judgment or order of a tribunal of appropriate jurisdiction
54 of this state, another state, Native American tribe, the federal government, or any other
55 comparable jurisdiction.

56 (11) "Director" means the director of the Office of Recovery Services.

57 (12) "Disposable earnings" means the same as that term is defined in Section
58 62A-11-103.

59 (13) "High-volume automated administrative enforcement" in interstate cases means,
60 on the request of another state, the identification by the office, through automatic data matches
61 with financial institutions and other entities where assets may be found, of assets owned by
62 persons who owe child support in the requesting state, and the seizure of the assets by the
63 office, through levy or other appropriate processes.

64 (14) "Income" means the same as that term is defined in Section [62A-11-103](#).

65 (15) "Notice of agency action" means the notice required to commence an adjudicative
66 proceeding in accordance with Section [63G-4-201](#).

67 (16) "Obligee" means an individual, this state, another state, or other comparable
68 jurisdiction to whom a duty of child support is owed, or who is entitled to reimbursement of
69 child support or public assistance.

70 (17) "Obligor" means a person, firm, corporation, or the estate of a decedent owing a
71 duty of support to this state, to an individual, to another state, or other corporate jurisdiction in
72 whose behalf this state is acting.

73 (18) "Office" means the same as that term is defined in Section [62A-11-103](#).

74 (19) "Parent" means a natural parent or an adoptive parent of a dependent child.

75 (20) "Person" includes an individual, firm, corporation, association, political
76 subdivision, department, or office.

77 (21) "Presiding officer" means a presiding officer described in Section [63G-4-103](#).

78 (22) "Support" includes past-due, present, and future obligations established by:

79 (a) a tribunal or imposed by law for the financial support, maintenance, medical, or
80 dental care of a dependent child; and

81 (b) a tribunal for the financial support of a spouse or former spouse with whom the
82 obligor's dependent child resides if the obligor also owes a child support obligation that is
83 being enforced by the state.

84 (23) "Support debt," "past-due support," or "arrear" means the debt created by
85 nonpayment of support.

86 (24) "Tribunal" means the district court, the Department of Human Services, the Office
87 of Recovery Services, or court or administrative agency of any state, territory, possession of the
88 United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American
89 Tribe, or other comparable domestic or foreign jurisdiction.

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

91 **78B-12-102. Definitions.**

92 As used in this chapter:

93 (1) "Adjusted gross income" means income calculated under Subsection

94 [78B-12-204](#)(1).

95 (2) "Administrative agency" means the Office of Recovery Services or the Department
96 of Human Services.

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

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

102 (5) "Base combined child support obligation table," "child support table," "base child
103 support obligation table," "low income table," or "table" means the appropriate table in Part 3,
104 Tables.

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

107 (7) "Child" means:

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

110 (b) a son or daughter ~~[over the age of]~~ 18 years~~;~~ of age or older while enrolled in high
111 school during the ~~[normal and expected year of graduation]~~ time period the son or daughter is
112 eligible to be enrolled in high school and not otherwise emancipated, self-supporting, married,
113 or a member of the armed forces of the United States; or

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

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

120 (9) "Child support order" or "support order" means a judgment, decree, or order of a

121 tribunal whether interlocutory or final, whether or not prospectively or retroactively modifiable,
122 whether incidental to a proceeding for divorce, judicial or legal separation, separate
123 maintenance, paternity, guardianship, civil protection, or otherwise which:

- 124 (a) establishes or modifies child support;
- 125 (b) reduces child support arrearages to judgment; or
- 126 (c) establishes child support or registers a child support order under Chapter 14, Utah
127 Uniform Interstate Family Support Act.

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

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

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

133 (13) "Income" means earnings, compensation, or other payment due to an individual,
134 regardless of source, whether denominated as wages, salary, commission, bonus, pay,
135 allowances, contract payment, or otherwise, including severance pay, sick pay, and incentive
136 pay. "Income" includes:

- 137 (a) all gain derived from capital assets, labor, or both, including profit gained through
138 sale or conversion of capital assets;
- 139 (b) interest and dividends;
- 140 (c) periodic payments made under pension or retirement programs or insurance policies
141 of any type;
- 142 (d) unemployment compensation benefits;
- 143 (e) workers' compensation benefits; and
- 144 (f) disability benefits.

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

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

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

152 (17) "Obligor" means any person owing a duty of support.

153 (18) "Office" means the Office of Recovery Services within the Department of Human
154 Services.

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

156 (20) "Split custody" means that each parent has physical custody of at least one of the
157 children.

158 (21) "State" includes any state, territory, possession of the United States, the District of
159 Columbia, the Commonwealth of Puerto Rico, Native American Tribe, or other comparable
160 domestic or foreign jurisdiction.

161 (22) "Temporary" means a period of time that is projected to be less than 12 months in
162 duration.

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

165 (24) "Tribunal" means the district court, the Department of Human Services, Office of
166 Recovery Services, or court or administrative agency of any state, territory, possession of the
167 United States, the District of Columbia, the Commonwealth of Puerto Rico, Native American
168 Tribe, or other comparable domestic or foreign jurisdiction.

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

172 (26) "Worksheets" means the forms used to aid in calculating the base child support
173 award.

174 Section 3. Section **78B-12-219** is amended to read:

175 **78B-12-219. Adjustment when child support is no longer due for a child.**

176 [~~(1) When a child becomes 18 years of age or graduates from high school during the~~
177 ~~child's normal and expected year of graduation, whichever occurs later, or if the child dies,~~
178 ~~marries, becomes a member of the armed forces of the United States, or is emancipated in~~
179 ~~accordance with Title 78A, Chapter 6, Part 8, Emancipation,]~~

180 (1) Unless otherwise provided in the child support order, when the following occurs
181 the base child support award is automatically adjusted to the base combined child support
182 obligation for the remaining number of children due child support, shown in the table that was

183 used to establish the most recent order, using the incomes of the parties as specified in that
184 order or the worksheets[~~; unless otherwise provided in the child support order.~~] effective the
185 month following:

186 (a) the later of the day on which the child:

187 (i) becomes 18 years of age;

188 (ii) is eligible to be enrolled in high school but is no longer enrolled in high school;

189 (iii) receives a high school diploma; or

190 (iv) achieves early completion of high school graduation requirements; or

191 (b) when the child:

192 (i) dies;

193 (ii) marries;

194 (iii) becomes a member of the armed forces of the United States; or

195 (iv) is emancipated in accordance with Title 78A, Chapter 6, Part 8, Emancipation.

196 (2) The award may not be reduced by a per child amount derived from the base child
197 support award originally ordered.

198 (3) If the incomes of the parties are not specified in the most recent order or the
199 worksheets, the information regarding the incomes is not consistent, or the order deviates from
200 the guidelines, automatic adjustment of the order does not apply and the order will continue
201 until modified by the issuing tribunal. If the order is deviated and the parties subsequently
202 obtain a judicial order that adjusts the support back to the date of the emancipation of the child,
203 the [~~Office of Recovery Services~~] office may not be required to repay any difference in the
204 support collected during the interim.

Legislative Review Note
Office of Legislative Research and General Counsel