

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.**

As used in this part:

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

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

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

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

(5) "Child" means:

(a) a son or daughter under ~~[the]~~ 18 years of 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,]~~ 18 years of age or older while enrolled in high school during the ~~[normal and expected year of graduation]~~ time period the son or daughter is eligible to be enrolled in high school 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 is without sufficient means.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 2. 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 of age 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~~;~~ of age or older while enrolled in high school during the ~~[normal and expected year of graduation]~~ time period the son or daughter is eligible to be enrolled in high school 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, all arrearages which 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, whether incidental to a proceeding for divorce, judicial or legal separation, separate maintenance, paternity, guardianship, civil protection, or otherwise which:

(a) establishes or modifies child support;

(b) reduces child support arrearages to judgment; or

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

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

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

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

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

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

(b) interest and dividends;

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

(d) unemployment compensation benefits;

(e) workers' compensation benefits; and

(f) disability benefits.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) becomes 18 years of age;

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

(iii) receives a high school diploma; or

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

(b) when the child:

(i) dies;

(ii) marries;

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

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

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

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

Legislative Review Note
Office of Legislative Research and General Counsel