

Utah Child Support Laws

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Utah Child Support Attorney

In the context of a divorce or paternity proceeding, the court requires the parents to provide financial support for the children which is done through a child support order. Our experienced child support attorneys are here to help protect you and your children. If you have questions about future child support or child support you are already paying, come to the trusted Utah child support attorneys at Wall & Wall Attorneys at Law. The child support in Utah is set using the **Utah Uniform Child Support Guidelines** contained in UCA 78B-12 and is detailed at the bottom of this article.

How is Child Support in Utah Determined?

Child support varies based upon the number of children and is also affected by the type of **physical custody** of the case. In cases where one of the parents is awarded primary physical custody, the child support paid by the non-custodial parent will be greater than in cases where parents have shared or joint custody arrangement. In the state of Utah, child support is determined from what is termed a “child support calculator”. Figures are plugged into the calculator and a total monthly figure is determined and set. The figures plugged in gross income, the number of children, and type of custody. The maximum combined income is \$10,000 per month. If combined income exceeds the guideline amount then it is left to the discretion of the court to determine the child support. Factors taken into consideration will include any special needs of the children and the standard of living the child would have enjoyed had the parents stayed together. More generally, though:

- Child support is based upon parents’ **gross monthly incomes**.
- Proof of income is required in the form of a paycheck stub showing current income along with the most recent tax return to submit the final decree of divorce or paternity.
- The gross monthly income is income received from the parents’ regular full-time

employment.

- In situations where one or both of the parents are unemployed, the courts may actually impute or attribute income to that parent based upon his/her **earning potential**.
- The court will generally impute the minimum of federal minimum wage to the unemployed parent.
- Earnings potential can be based upon the analysis of historical wage or income history, education and work experience.
- **Child support is payable until a child turns eighteen or graduates from high school**, whichever is later.
- In cases involving multiple children, as each child turns eighteen or graduates from high school the child support is recalculated based upon the remaining number of minor children.
- An exception to this would in situations where there is a child with special needs which may require the payment of support well into adulthood.

The parents are generally required to share all out of pocket medical expenses which usually includes co-payments and payments toward deductibles on health insurance coverage. Where one or both of the parents are able to obtain health insurance coverage for the children at a reasonable cost, the maintaining of said coverage is usually ordered by the court with the parents being required to share equally in the children's portion of the health insurance premiums. Where the non-custodial parent is the one maintaining insurance, the sharing or reimbursement from the custodial parent is done simply by deducting it from the child support obligation.

Parents are also required to share all out of pocket work or education related child care expenses. Health insurance premium, medical (including dental and optical) expenses and child care expenses are in addition to the base child support Utah. When a parent pays a medical expense they are required to provide written proof of payment to the other parent within 30 days of payment of that expense. Subsequently, the other parent



is required to provide one-half reimbursement of that receipt within 30 days of receiving proof of payment. With respect to reimbursement of child care expenses, the parent who incurs that expense is required to provide notification to the other parent of the name and location of the child care provider, the monthly child care cost and proof of amount incurred each month. Once the non-custodial parent has been provided this information he or she is then required to provide monthly reimbursement for one-half of the total cost to the other parent. The parent that incurs that cost doesn't have to provide proof every month, but the non-custodial parent has a continuing obligation while child care services rendered to maintain monthly reimburse. The noncustodial parent has the right to request proof of child care costs at any time to verify expenditures. The custodial parent to immediately notify the non-custodial parent of any change in the child care provider or child care cost.

Extended Visitation Reduction in Child Support

The non-custodial parent is entitled to a reduction in his child support obligation of 50% whenever he/she has the children for any 25 days of any 30 consecutive day period. A reduction of 25% whenever he/she has the children for any 12 days of any 30 consecutive day period. The Utah Annotated Code detailing this reduction is below:

Reduction for extended parent-time (78-12-216)

1. The base child support award shall be:
 - (a) reduced by 50% for each child for time periods during which the child is with the noncustodial parent by order of the court or by written agreement of the parties for at least 25 of any 30 consecutive days of extended parent-time; or
 - (b) 25% for each child for time periods during which the child is with the noncustodial parent by order of the court, or by written agreement of the parties for at least 12 of any 30 consecutive days of extended parent-time.
2. If the dependent child is a client of cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program, any agreement by the parties for reduction of child support during extended parent-time shall be approved by the administrative agency.
3. Normal parent-time and holiday visits to the custodial parent shall not be considered extended parent-time.

Taxes

Another issue that the court will address during your divorce or paternity proceedings is the award of the child dependent tax exemptions. The court will usually consider which parent is providing the bulk of financial support for the children and which parent will gain the greatest relative tax benefit by claiming the child/children for tax exemption. If both parents are employed, the courts will usually allow the parties to share the exemptions in some fashion by alternating years or in cases with multiple children by dividing the number of children they each get to claim. A parent that is ordered to pay child support will not be allowed to claim the tax exemption unless he/she is current in their child support Utah payments for the tax year you want to claim.



ORS – Utah Office of Recovery Services

The payment of child support is required to be made pursuant to what is called a wage withholding order which is administrated through the Utah Office of Recovery Services (ORS). Mandatory income or wage withholding may be waived in certain circumstances

where the payor is self-employed or the parties mutually agree to waive it. If it is waived then there is usually a provision where the payee has a right to go to ORS for assistance to recover the past due and ongoing child support through ORS.

Child Support Modification

Even though a divorce or paternity decree may set a child support amount, that amount is not necessary permanent. The court retains what is called continuing jurisdiction to modify certain provisions in such decrees. One of these is the amount of child support. In situations where there has been a significant increase/ decrease or loss of income by one or both of the parents the court may modify the child support amount based upon that change in circumstances. There are two circumstances to where child support may be modified. First, in cases where it has been more than three years since the child support was first established or last modified if the change in the parties' incomes results in a change of the child support amount of more than 10% then the court more modify the support amount accordingly. In cases where it has been less that 3 years there is a threshold of 15% change to mandate a child support modification.

In order to obtain a modification, a petition to modify the existing child support order has to be filed with the court as a new proceeding. It is prudent to hire an attorney to assist you in this modification. In your original divorce/paternity decree, it is recommended that the parties be required to exchange yearly tax returns on an annual basis.

If you are in a circumstance where you lose your job, you are still on the hook to pay your monthly child support until the court modifies your support amount. It is critical to keep paying your child support during this time, but in modifications preceding you can make a request to the court of a temporary reduction in the child support while waiting for you're the final determination on the petition to modify.

During a modification, if you have remarried your spouse's income is not considered as part of the proceedings. Consult an attorney at Wall and Wall to assist you in these matters.

There are many important provisions to include in your decree of divorce or paternity and it is imperative that you receive legal counsel to ensure that all pertinent issues are covered and that the language is strong and appropriate to protect your long term interests.



Utah Code 78B-12-201: Determination of amount of support
— Rebuttable guidelines.

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1. (a) Prospective support shall be equal to the amount granted by prior court order unless there has been a substantial change of circumstance on the part of the obligor or obligee or adjustment under Subsection 78B-12-210(6) has been made.(b) If the prior court order contains a stipulated provision for the automatic adjustment for prospective support, the prospective support shall be the amount as stated in the order, without a showing of a material change of circumstances, if the stipulated provision:
 1. is clear and unambiguous;
 2. is self-executing;
 3. provides for support which equals or exceeds the base child support award required by the guidelines; and
 4. does not allow a decrease in support as a result of the obligor's voluntary reduction of income.
 2. If no prior court order exists, a substantial change in circumstances has occurred, or a petition to modify an order under Subsection 78B-12-210(6) has been filed, the court determining the amount of prospective support shall require each party to file a proposed award of child support using the guidelines before an order awarding child support or modifying an existing award may be granted.
 3. If the court finds sufficient evidence to rebut the guidelines, the court shall establish support after considering all relevant factors, including but not limited to:
 - (a) the standard of living and situation of the parties;
 - (b) the relative wealth and income of the parties;
 - (c) the ability of the obligor to earn;
 - (d) the ability of the obligee to earn;
 - (e) the ability of an incapacitated adult child to earn, or other benefits received by the adult child or on the adult child's behalf including Supplemental Security Income;
 - (f) the needs of the obligee, the obligor, and the child;
 - (g) the ages of the parties; and
 - (h) the responsibilities of the obligor and the obligee for the support of others.
 4. When no prior court order exists, the court shall determine and assess all arrearages based upon the guidelines described in this chapter.

To make a free 30-minute initial consultation or appointment with a Wall & Wall Attorney, please call us at 801-441-2388 or [click here](#) to see our Attorney Profiles.
