

STATE OF OKLAHOMA

1st Session of the 43rd Legislature (1991)

SENATE BILL NO. 399

BY: CAIN

AS INTRODUCED

AN ACT RELATING TO MARRIAGE AND FAMILY AND PUBLIC FINANCE; PROVIDING SHORT TITLE; PROVIDING FOR DEFINITIONS; CREATING THE OKLAHOMA SUPPORT REGISTRY; DEFINING DUTIES OF THE SECRETARY OF STATE; GRANTING AUTHORITY FOR THE OKLAHOMA REGISTRY TO COLLECT, DEPOSIT AND DISBURSE CERTAIN FUNDS; PROSCRIBING CERTAIN COURT ORDERS IN SUPPORT MATTERS; REQUIRING CERTAIN PERSONS TO MAKE SUPPORT PAYMENTS TO THE OKLAHOMA SUPPORT REGISTRY; DIRECTING THE SERVICE OF NOTICE; DEFINING CONTENTS OF COURT ORDERS IN SUPPORT CASES; REQUIRING THAT AN ABSTRACT OF INFORMATION ACCOMPANY COURT ORDERS DIRECTING THAT SUPPORT PAYMENTS BE MADE TO THE OKLAHOMA SUPPORT REGISTRY; DEFINING CONTENTS OF ABSTRACT OF INFORMATION; DIRECTING DISTRICT COURT CLERKS TO FORWARD CERTAIN ORDERS AND DOCUMENTS TO THE OKLAHOMA SUPPORT REGISTRY WITHIN A SPECIFIED TIME PERIOD; ESTABLISHING OBLIGOR RESPONSIBILITY FOR MAKING PAYMENTS TO THE OKLAHOMA SUPPORT REGISTRY; ALLOWING FOR ALTERNATIVE PAYMENT PLAN IN CERTAIN CIRCUMSTANCES; AUTHORIZING COLLECTION ACTIONS; REQUIRING CERTAIN METHODS OF PAYMENTS; AMENDING 62 O.S. 1981, SECTION 7.1, AS LAST AMENDED BY SECTION 12, CHAPTER 337, O.S.L. 1990 (62 O.S. SUPP. 1990, SECTION 7.1), WHICH RELATES TO AGENCY

CLEARING ACCOUNTS; EXEMPTING OKLAHOMA SUPPORT
REGISTRY FUNDS AND REVENUES FROM DEPOSIT WITH THE
STATE TREASURER; PROVIDING FOR CODIFICATION; AND
PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 410 of Title 43, unless there is created a duplication in numbering, reads as follows:

This act shall be known as the "Oklahoma Support Registry Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 411 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. "Support" or "support payments" means an amount which the court or administrative agency may require either of the parties to pay under a temporary order or a final judgment or decree, and may include alimony, child support, maintenance, spousal support, and other terms used to describe these obligations.

B. "Support order" means a temporary order, final judgment or decree that establishes an obligation of support pursuant to a judicial or administrative procedure.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 412 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created in the Office of the Secretary of State the Oklahoma Support Registry. In maintaining and operating the Registry, the Secretary of State shall:

1. Account for and disburse all support payments received by the Registry, identifying the source of payment, if possible;

2. Maintain the necessary records including, but not limited to: information on support debts, including the date and amount of support due, and the type of support payment; the date and amount of payments and to whom the payment was made; and the names, social security number, employers and addresses of the parties;

3. Develop procedures and forms to obtain information regarding the support obligation and to provide information to the parties regarding actions taken by, and support payments collected and distributed by the Registry; and

4. Adopt rules for the maintenance and retention of records of support payments and for the archiving and destruction of such records when the support obligation terminates or is satisfied. When support obligation established under a court or administrative order has been satisfied, notice shall be given to the court or administrative agency which entered the order.

B. The Registry shall be exempt from the requirements of Section 7.1 of Title 62 of the Oklahoma Statutes requiring agency clearing accounts.

C. Support received by the Registry shall be distributed promptly but not later than ten (10) days from the date of receipt unless circumstances exist which make such distribution impossible. Such circumstances shall include:

1. When the location of the custodial person is unknown; or
2. When the responsible parent or custodial parent cannot be identified.

D. To the extent allowed by federal law, money collected shall be distributed in the following manner:

1. Monies paid as support shall first be applied to the obligor's current monthly child support obligations;
2. After satisfaction of the current monthly child support obligation, excess funds shall be used to satisfy the current monthly spousal support obligation;

3. After satisfaction of the current monthly child support obligation and spousal support obligation, if any, excess funds shall be used to satisfy the monthly medical support;

4. After satisfaction of the current monthly child support obligation, spousal support obligation, and medical support obligation, if any, excess funds shall be used to satisfy the current monthly day care expenses, if any;

5. Money collected in excess of the monthly support obligation shall be applied to obligations that are past due in the same manner as applied to current monthly support;

6. When a responsible parent has more than one support obligation, or a support debt is owed to more than one party, monies received will be distributed between the parties proportionally, as described above, based upon the amount of the current monthly support obligation and/or the amount of past due support; and

7. Any money paid by the obligor in excess of the amount due for the current month will be applied to any past due obligation before being applied to future support.

E. If the Oklahoma Support Registry distributes a support payment to a person in error, the Registry may obtain restitution by means of a set-off against future payments received on behalf of the person receiving the erroneous payment. Any set-off against future support payments shall be limited to amounts collected on the support debt and up to ten percent (10%) of amounts collected as current support.

F. The Registry shall have the authority to receive and deposit support payments using private banks or other financial institutions. The Registry shall also have the authority to write checks and to utilize available technology, including electronic funds transfer, to distribute payments in the most effective and efficient manner possible.

G. If the Department of Human Services is providing child support services pursuant to Title IV-D of the Social Security Act, payments shall, by operation of law, be made to the Oklahoma Support Registry.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 413 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. After the effective date of this act, the district court shall include in all district court orders that establish, modify or enforce support obligations a provision which directs and orders the obligor to make all support payments to the Oklahoma Support Registry, unless the court finds compelling reasons why an alternative plan should be allowed.

B. The administrative hearings unit of the Department of Human Services shall require that all support obligations that establish, modify or enforce support obligations through the administrative process include a provision which directs and orders the obligor to make all support payments to the Oklahoma Support Registry.

C. If an order does not include the provision ordering and directing all payments to be made to the Oklahoma Support Registry, the obligor must be notified that payments are to be directed to the Oklahoma Support Registry unless an alternate payment plan is established by the court. The notice shall be served on the obligor by personal service or by proof of mailing to an address that has been verified by the post office within the last sixty (60) days.

D. Every order entered to establish, modify or enforce an obligation for support shall state:

1. That payments shall be made to the Oklahoma Support Registry or in accordance with the alternate plan approved by the court;

2. The amount of the support award as a sum certain and recite the time period covered by any judgment;

3. The specific day or date on which the support payment is due;

4. The social security number, residence address, and name of the employer of the obligor and of the obligee;

5. The names, dates of birth, and social security numbers, if any, of the dependent children; and

6. That the parties are to notify the Oklahoma Support Registry of any changes in residence or employment within ten (10) days after the change.

E. Every order which provides that support payments are to be made to the Oklahoma Support Registry shall be accompanied by an abstract of information. The abstract of information shall be approved and signed by the judge or the administrative law judge issuing the order, and shall include the following information:

1. The amount of each current obligation, a description of the obligation, and the date the obligation is due;

2. The amount of any support debt; and

3. The social security number, residence address and name of the employer of the obligor and of the obligee.

F. The clerk of the district court or the administrative hearing unit shall, within five (5) days after the entry of an order, forward to the Oklahoma Support Registry a true and correct copy of all district court orders or administrative orders and the accompanying abstracts of information which establish, modify or enforce a support obligation and which provide that support payments shall be made to the Oklahoma Support Registry.

G. After the obligor has been ordered or notified to make payments to the Oklahoma Support Registry in accordance with the provisions of this section, the obligor shall be fully responsible for making all payments to the Oklahoma Support Registry. The obligor shall not be entitled to credit against a support obligation for any payments made to a person or agency other than to the

Oklahoma Support Registry unless a foreign jurisdiction is involved with the enforcement of the obligation and payments are being made to the official record keeping agency for that jurisdiction.

H. Upon termination of child support services under Title IV-D of the Social Security Act the obligee may petition the court to establish an alternative payment plan.

I. Support monies received by a recipient or former recipient of aid under Title IV-A of the Social Security Act, which represent payment in whole or in part in satisfaction of a support obligation which has been assigned to the Department of Human Services, shall be remitted to the Oklahoma Support Registry within ten (10) days of receipt by the recipient or former recipient.

J. Collection actions shall be initiated based upon the records of the Oklahoma Support Registry. A copy of such record, certified by the Oklahoma Support Registry shall be admissible as presumptive evidence of a true and correct record of payments.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 414 of Title 43, unless there is created a duplication in numbering, reads as follows:

All payments made to the Oklahoma Support Registry shall be made by cashier's check, money order or electronic funds transfer.

SECTION 6. AMENDATORY 62 O.S. 1981, Section 7.1, as last amended by Section 12, Chapter 337, O.S.L. 1990 (62 O.S. Supp. 1990, Section 7.1), is amended to read as follows:

Section 7.1 A. There is hereby created in the official depository in the State Treasury an agency clearing account for each state officer, department, board, commission, institution or agency of the state, hereinafter referred to collectively as state agencies.

B. It shall be the duty of each state agency, officer or employee, to deposit in the agency clearing account, or agency

special account, established under Section 7.2 of this title, all monies of every kind, including, but not limited to:

1. Tax revenues;

2. Receipts from licenses, examinations, per diem and all other reimbursements, fees, permits, fines, forfeitures and penalties; and

3. Income from money and property, grants and contracts, refunds, receipts, reimbursements, judgments, sales of materials and services of employees, and nonrevenue receipts, received by a state agency, officer or employee by reason of the existence of and/or operation of a state agency.

C. All such monies collected pursuant to this section shall be deposited as follows in the agency clearing account or agency special account established therefor:

1. Receipts of One Hundred Dollars (\$100.00) or more shall be deposited on the date of receipt.

2. Receipts of less than One Hundred Dollars (\$100.00) may be held until accumulated receipts equal One Hundred Dollars (\$100.00) or for five (5) business days, whichever occurs first, and shall then be deposited no later than the next business day.

a. Each state agency that has custody of receipts of less than One Hundred Dollars (\$100.00) shall provide adequate safekeeping of such receipts,

b. No disbursements shall be made from such receipts prior to this deposit, and

c. All checks received must be restrictively endorsed immediately upon receipt.

D. The State Treasurer is authorized to accept deposits directly to State Treasury funds, consisting of cash, bank drafts, bank cashier's checks, federal treasury checks and other forms of remittance which are uniformly honored for payment.

All checks, drafts, orders and vouchers so deposited shall be credited and cleared at par and should payment be refused on any

such check, draft, order or voucher, or should the same prove otherwise worthless, the amount thereof shall be charged by the State Treasurer against the account or fund theretofore credited with the same; and the person issuing the check, draft, order or voucher shall be charged a fee of Twenty-five Dollars (\$25.00) to cover the costs of processing each returned check; provided, such charge shall not be made unless efforts have been made to present such check, draft, order or voucher for payment a second time. Unless otherwise provided by law, such fee shall be deposited to the revolving fund of the state agency to which the check, draft, order or voucher was issued. If no revolving fund exists for the state agency, then such fee shall be deposited to the General Revenue Fund. The State Treasurer shall not accept for deposit to any agency clearing account, or any agency special account, created pursuant to the provisions of Section 7.2 of this title, any warrant, check, order or voucher drawn against any state fund or account in favor of any individual or other person except the state officer, department, institution or agency for which account or fund the deposit is made, or a bona fide student enrolled at any of the state institutions of higher learning when such warrant, check, order or voucher is endorsed to the institution as payment of any fees or other accounts due such institution.

E. At least once each month each state agency shall transfer monies deposited in agency clearing accounts to the various funds or accounts, subdivisions of the state, or functions as may be provided by statute and no money shall ever be disbursed from the agency clearing account for any other purpose, except in refund of erroneous or excessive collections and credits. Provided, however, that state parks and lodges under the control of the Oklahoma Tourism and Recreation Department and district offices under the control of the Corporation Commission shall be permitted to make deposit of receipts on a monthly basis, provided that such receipts

must be deposited within the month received or when such receipts equal or exceed Five Hundred Dollars (\$500.00) for state parks and lodges under the control of the Oklahoma Tourism and Recreation Department, or One Hundred Dollars (\$100.00) for district offices under the control of the Corporation Commission, whichever first occurs.

F. Funds and revenues of the Oklahoma Municipal Power Authority, the Grand River Dam Authority, the Oklahoma Ordnance Works Authority and the Midwestern Oklahoma Development Authority are exempt from the requirements of this section.

G. Funds and revenues of the Oklahoma Support Registry are exempt from the requirements of this section.

~~G.~~ H. Monies used for investment purposes by the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, the Oklahoma Public Employees Retirement System, the Teachers' Retirement System of Oklahoma, the Oklahoma State Regents for Higher Education and the State and Education Employees Group Insurance Board are exempt from the requirements of this section, and shall be placed with the respective custodian bank or trust company.

SECTION 7. This act shall become effective September 1, 1991.

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