

STATE OF OKLAHOMA

2nd Session of the 43rd Legislature (1992)

SENATE BILL NO. 976

BY: CAIN

AS INTRODUCED

AN ACT RELATING TO CHILD SUPPORT ENFORCEMENT;

AMENDING 43 O.S. 1991, SECTION 118.1, 56 O.S. 1991, SECTIONS 237 AND 240.5, AND 62 O.S. 1991, SECTION 195, WHICH RELATE TO CHILD SUPPORT ORDERS, CHILD SUPPORT COLLECTION, CHILD SUPPORT SERVICES, AND CERTAIN PETTY CASH FUNDS; REQUIRING FINANCIAL DISCLOSURE; REQUIRING INFORMATION TO CHILD SUPPORT ENFORCEMENT DIVISION; SPECIFYING DUTIES OF CERTAIN ATTORNEYS OF THE DEPARTMENT OF HUMAN SERVICES; DELETING CERTAIN FEES; AUTHORIZING CERTAIN FEES; CREATING CHILD SUPPORT ENFORCEMENT PETTY CASH FUND; PROVIDING FOR CODIFICATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 43 O.S. 1991, Section 118.1, is amended to read as follows:

Section 118.1 A. Effective October 13, 1990, the Department shall commence a review of all orders in which child support services are being provided under the state child support plan as provided under Section 237 of Title 56 of the Oklahoma Statutes, to determine whether the amount of child support ordered is in accordance with the child support guidelines. If the Department

determines that individual awards are not in accordance with such guidelines, or upon request of the payor or payee, the case shall be presented to the court or administrative hearing officer for appropriate action. The court or administrative hearing officer shall review ~~said~~ the award to determine its compliance with child support guidelines every three (3) years unless the payor or payee requests review prior to that time. Prior to such review, all parties shall receive notice of ~~such~~ the review as provided by law.

B. In any proceeding to establish or modify a support order, each party shall completely disclose his or her financial status.

SECTION 2. AMENDATORY 56 O.S. 1991, Section 237, is amended to read as follows:

Section 237. A. The Department of Human Services, hereinafter referred to as "Department", as the single state agency designated to administer a statewide plan for child support, is authorized, in accordance with Title IV, Part D, of the Federal Social Security Act, as amended, 42 U.S.C., Section 651 et seq. to provide child support collection, parent location services and paternity determination services to enable it to participate in programs established by federal law.

B. The Department is authorized to:

1. Accept, transfer and expend funds made available by the government of the United States, the State of Oklahoma and public or private sources, for the purpose of carrying out the provisions of this section;

2. Promulgate rules and regulations to provide ~~the~~ child support services;

3. Initiate legal actions needed to implement the provisions of this section;

4. Enter into contracts or agreements necessary to administer this section; ~~and~~

5. Request agencies and political subdivisions of the state, county or municipality to search their records and furnish to the Department information concerning names and addresses to assist in the locating of absent parents; and

6. Request information to assist in locating said individuals, from any state agency, political subdivision of the state, person, sole proprietorship, corporation, utility, partnership, association or organization doing business in this state, who or which shall provide such information to the Child Support Enforcement Division when the Child Support Enforcement Division of the Department of Human Services has reason to believe that individuals are not providing for the support of their children. Failure to provide such information may result in a fine of not more than Two Hundred Dollars (\$200.00).

C. 1. An applicant for or recipient of aid to families with dependent children, hereinafter referred to as "recipient", shall be required to assign to the Department any rights of or support from any other person which the recipient may have in his or her own behalf or for a child for whom the recipient is applying for or receiving assistance, including the right to an amount accrued at the time the assignment is executed.

2. When an order has been entered which provides for payment of child support and the legal custodian and obligee pursuant to the order relinquishes physical custody of the child to a caretaker relative who is a recipient, without obtaining a modification of the order to change legal custody, and the caretaker relative makes an assignment of support rights for that child to the Department, the relinquishment and assignment, by operation of law, shall create a presumption that the recipient has physical custody of the child and shall transfer the child support obligation pursuant to the order to the Department. The assignment and transfer of the obligation shall terminate when the caretaker relative no longer has physical custody

of the child, except for the amount of unpaid support still owing to the Department pursuant to the assignment.

3. If an assignment has been made pursuant to this section or a proper application made by an individual not receiving aid to families with dependent children, support payments shall be made to the Department. If a court has ordered support payments to be made to the recipient or the applicant, the Department may file notice of such assignment or application with the court ordering the payments. The notice shall include:

- a. a statement that the assignment or application has been made;
- b. the name of the child for whom support has been ordered by the court and the name of the recipient or custodian of the child;
- c. the style and cause number of the case in which support was ordered; and
- d. a request that payments so ordered be made to the Department. Upon receipt of the notice, and without a requirement of a hearing, the court shall order the payments to be made to the Department.

4. Said order to redirect the payments shall be sent to the obligor by regular mail with proof of mailing from the United States Postal Service. If after notice of said redirection the obligor does not make payments to the Department as ordered, said payments shall not be credited to the amount owed.

D. The Department may, when support rights have been assigned to it or upon proper application by an individual not receiving aid to families with dependent children, establish medical support and child support, enforce orders for medical support ~~and any~~ or other support, and make collection and distribution of child support monies, assist in the judicial determination of the paternity of a child born out of wedlock and in location of absent parents, in

cooperation with federal agencies, other agencies of ~~the State of Oklahoma~~ this state and of other states. The Department may petition the court to modify any order for support. A reasonable fee and costs may be assessed for services to individuals not receiving aid to families with dependent children under rules and regulations adopted by the Department.

E. Child support payments made to the Department pursuant to this section shall be deposited in the Child Support Escrow Account for distribution as may be required by Section 235 of this title, or by 42 U.S.C., Section 651 et seq. Fees or reimbursements of costs collected by the Department shall be deposited in the Administration Fund of the Department and may be used and expended by the Department for the purposes of carrying out the provisions of this section.

F. Except as otherwise authorized by law, all files and records concerning the assistance and services provided under this section or concerning a putative father of a child born out of wedlock are confidential. Release of information from the files and records shall be restricted to purposes directly connected with the administration of the child support collection, paternity determination, parent location or aid to families with dependent children programs. Information may be released to public officials under rules and regulations adopted by the Department, consistent with federal rules or regulations.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 237.3 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. Attorneys employed by the Department of Human Services for the establishment of paternity and the establishment, enforcement and collection of child support obligations under Part D of Title IV of the Federal Social Security Act, 42 U.S.C., Section 651 et seq., or attorneys acting for said Department through an agreement as set

forth in Section 237.1 of this title may represent the state or other states in administrative or civil actions.

B. Department attorneys represent the state and not the interests of any other party. Providing services under Title IV-D of the Federal Social Security Act does not create an attorney-client relationship with any other party.

C. Neither the Department of Human Services nor any attorney providing services under Title IV-D of the Federal Social Security Act shall be authorized to accept service, as authorized in Section 2005 of Title 12 of the Oklahoma Statutes, for any party other than the Department of Human Services.

SECTION 4. AMENDATORY 56 O.S. 1991, Section 240.5, is amended to read as follows:

Section 240.5 A. Those persons not receiving aid to families with dependent children shall be given equal access to the services provided by the Department of Human Services through its statewide plan for child support authorized by the Federal Social Security Act, 42 U.S.C., Section 301 et seq.

B. The Department is authorized to ~~charge a reasonable fee and costs for such services. Such fee, not to exceed Twenty-five Dollars (\$25.00), shall be paid by the applicant and such other costs shall be charged to the obligor~~ study, develop and propose to the Legislature a fee schedule for child support enforcement services provided through the Child Support Enforcement Division of the Department.

SECTION 5. AMENDATORY 62 O.S. 1991, Section 195, is amended to read as follows:

Section 195. A. 1. There is hereby created a petty cash fund at each of the following institutions: Oklahoma School for the Blind, Muskogee, Oklahoma; Oklahoma School for the Deaf, Sulphur, Oklahoma; Griffin Memorial Hospital, Norman, Oklahoma; Eastern State

Hospital, Vinita, Oklahoma; Enid State School, Enid, Oklahoma; Pauls Valley State School, Pauls Valley, Oklahoma; Western State Hospital, Fort Supply, Oklahoma; Central Oklahoma Juvenile Treatment Center, Tecumseh, Oklahoma; Hisson Memorial Center, Sand Springs, Oklahoma; L.E. Rader Children's Diagnostic and Evaluation Center, Sand Springs, Oklahoma; L.E. Rader Intensive Treatment Center, Sand Springs, Oklahoma; and the Oklahoma Medical Center.

2. The Director of State Finance and the head of the institution involved are hereby authorized and it shall be their duty to fix the maximum amount of the petty cash funds. The Director of State Finance shall prescribe all forms, systems, and procedures for administering the petty cash funds of the institution.

B. 1. There is hereby created a petty cash fund in the legal division of the Department of Human Services which fund shall be used solely to pay court costs, filing fees, witness fees, and expenses related to any case or proceeding within the responsibility of the legal division.

2. There is hereby created a petty cash fund in the Child Support Enforcement Division of the Department of Human Services. The fund shall be used solely to pay litigation expenses, including court costs, filing fees, witness fees, and expenses related to any case or proceeding within the responsibility of the Child Support Enforcement Division.

3. The Director of State Finance, and the Director of the Department of Human Services are hereby authorized and it shall be their duty to fix the maximum amount of the petty cash ~~fund~~ funds. The Director of State Finance shall prescribe all forms, systems, and procedures for administering the petty cash ~~fund~~ funds.

C. 1. There is hereby created a petty cash fund in the finance department of the Oklahoma Corporation Commission which shall be used solely to pay litigation expenses of the legal division,

including court costs, filing fees, witness fees, and other expenses related to any case, proceeding, or matter within the responsibility of the legal division.

2. The Director of State Finance and the Corporation Commission are hereby authorized and it shall be their duty to fix the maximum amount of the petty cash fund, not to exceed Five Hundred Dollars (\$500.00). The Director of State Finance shall prescribe all forms, systems, and procedures for administering the petty cash fund.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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