

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1492

By: Williams, Boyd (Laura),
Monks and Seikel of the
House

and

Robinson of the Senate

COMMITTEE SUBSTITUTE

(Poor persons and children - Department of
Human
Services - amending sections in Titles 10, 12,
43, 56 and 63 - codification -
effective date
)

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 230.1 of Title 56, unless
there is created a duplication in numbering, reads as follows:

A. The Department of Human Services shall implement the
provisions of this act to the full extent permitted by federal
law.

B. The Department of Human Services shall submit any federal waiver requests as necessary to implement the provisions of this act no later than January 1, 1994. Any provision of this act requiring any such waivers shall not be implemented until such federal waivers are approved and a certification is made by the Department of Human Services to the Governor and the Speaker of the House of Representatives and the President Pro Tempore of the Senate that implementation of this act shall not result in the loss of any federal funds.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 230.2 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. Except as provided in subsection B of this section, if a person applying for aid is under eighteen (18) years of age, has never married and is pregnant or has a dependent child in his or her care, the person is not eligible for aid unless he or she lives in a place maintained by his or her parent, legal guardian or other adult relative as the parent's, guardian's or other adult relative's own home or lives in a foster home, maternity home or other supportive living arrangement supervised by an adult.

B. Subsection A of this section shall not apply in any of the following situations:

1. The person applying for aid has no parent or legal guardian or none whose whereabouts are known;

2. No parent or legal guardian of the person applying for aid allows the person to live in the home of that parent or legal guardian;

3. The Department determines that the physical or emotional health or safety of the person applying for aid or the dependent child would be jeopardized if the person and the dependent child lived with the person's parent or guardian; or

4. The person applying for aid lived apart from his or her parent or legal guardian for at least one (1) year before the birth of any dependent child or before the person applied for aid.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 230.3 of Title 56, unless there is created a duplication in numbering, reads as follows:

The Commission for Human Services shall revise the rules and standards governing the Aid to Families with Dependent Children program to permit the program to provide full benefits to a family whose income does not exceed the state eligibility standard in which the parents are married and reside in the same household without regard to the thirty-day unemployment requirement, the

one-hundred-hour rule or the work history requirement set forth in 45 C.F.R., Section 233.100.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 230.4 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. 1. The Department shall seek federal approval to operate a pilot project in five (5) counties for the purpose of testing "fill-the-gap" budgeting and determining whether such an approach leads to improved rates of employment entry and employment retention by AFDC recipients.

2. In the affected counties, if a family's net nonexempt income is below the standard of need, the amount of assistance to be paid to the family shall be the difference between the standard of need and the family's net nonexempt income, multiplied by the percentage of the deficit to be paid.

3. For purposes of implementing fill-the-gap budgeting in the pilot counties, the "percentage of the deficit" is defined as the percentage of the state's standard of need reflected by the amount of assistance to be paid to a family with no income.

B. It is the intent of the Legislature that the Department of Human Services:

1. Should eliminate the time restriction for the Thirty Dollars (\$30.00) and one-third (1/3) of the remainder work disregard; and

2. Should couple its development of a revised disregard policy with an approach to "fill-the-gap" budgeting. In so doing, however, the Department of Human Services should avoid creating new inequities between AFDC families and nonwelfare ("working poor") families.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 230.5 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Department of Human Services shall revise applicable standards and rules which will allow recipients of assistance pursuant to the Medicaid and Aid to Families with Dependent Children programs who become employed to continue to receive transitional Medicaid and child care assistance for twenty-four (24) months following the initial date of employment unless:

1. The employer provides medical assistance or child care benefits; or

2. The monthly salary received from the employer exceeds the monthly allowance of assistance pursuant to the Aid to Families

with Dependent Children program plus the cost of child care and medical insurance to which the recipient would be entitled.

B. The Department of Human Services shall revise applicable standards and rules which will allow recipients of assistance pursuant to the Aid to Families with Dependent Children program who become employed to receive case management and transitional support services pursuant to the Family Support Act, for a period of ninety (90) days. Such services will include, but are not limited to, transportation assistance, ensuring that the family received transitional Medicaid and child care, familiarity with the Earned Income Tax Credit, and any other problems which emerge in the initial months of employment.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 230.6 of Title 56, unless there is created a duplication in numbering, reads as follows:

The Department of Human Services to the fullest extent possible shall assure that any AFDC recipient and food stamp recipient who may qualify for receipt of the Earned Income Tax Credit (EITC), pursuant to 26 U.S.C., Section 32 (a-j), applies for the EITC. The Department of Human Services should have the forms readily available and should provide assistance and encouragement to those wishing to apply for the EITC.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 506.1 of Title 56, unless there is created a duplication in numbering, reads as follows:

Prior to any placement in any program established pursuant to the Community Workfare Experience Act, the Department of Human Services shall conduct an assessment of employability based on the educational level, including literacy and English language proficiency; child day care and other supportive services needs; and the skills, prior work experience, training and vocational interests of each recipient of Aid to Families with Dependent Children required to participate in the Community Workfare Experience Program. This assessment shall include a review of family circumstances including but not limited to a review of any special needs of a child.

SECTION 8. AMENDATORY 56 O.S. 1991, Section 509, is amended to read as follows:

Section 509. A. Each AFDC recipient must register and shall participate, upon referral by the Department, in a program unless such individual is:

1. Employed for no fewer than eighty (80) hours per month and is earning an amount not less than the applicable minimum wage for such employment;

2. A child who is under sixteen (16) years of age or attending school full time;

3. A person who is ill, incapacitated or over the age of ~~fifty-five (55)~~ sixty-five (65) years;

4. A person whose presence in the home is required because of illness or incapacity of another member of the household; or

5. The mother or other relative who is caring for a child under the age of ~~one (1) year~~ three (3) years provided that AFDC recipients with children between the ages of one (1) through two (2) shall be required to participate in an assessment of employability required for AFDC participants pursuant to the provisions of the Community Workfare Experience Act.

B. The exemptions contained in subsection A of this section may be modified by the Department in the event of a change in the federal exemption criteria.

C. Any individual ~~referred to in~~ exempted by subsection A of this section shall be advised of the option to register, if so desired, and shall be informed of the child care and other services which would be available in the event such individual should decide to register and participate in the program.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 509.1 of Title 56, unless there is created a duplication in numbering, reads as follows:

The Department of Human Services, to the fullest extent possible, shall assure that Aid to Families with Dependent Children recipients who are not exempt and are not participating in the JOBS program have the opportunity to participate in the Community Workfare Experience Program, as long as child care is made available. Community workfare experience may include experience as a nontechnical medical care provider and home maintenance aide, provided through the Department of Human Services. Those recipients who are exempt should nevertheless be advised of the availability of the Community Workfare Experience Program opportunities.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 512 of Title 56, unless there is created a duplication in numbering, reads as follows:

The Department of Human Services should increase the amount spent to provide, pay for, or reimburse one-time work-related expenses for JOBS participants and other AFDC recipients who enter employment. Such assistance shall include, but shall not be

limited to, costs of auto repair or registration, uniforms, clothing, and transportation costs. The Department should also assure that Medicaid benefits to cover prescription eyeglasses and dental services are made available to those qualifying for the one-time work-related expenses.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 230.7 of Title 56, unless there is created a duplication in numbering, reads as follows:

Persons eighteen (18) years of age or less who are supporting their minor children and are eligible for benefits pursuant to the Aid to Families with Dependent Children program, shall be entitled to receive in addition to such benefits a Fifty Dollar (\$50.00) grant supplement each month if such person:

1. Is attending classes leading towards a diploma, vocational-technical school or GED; and
2. Has had no more than four absences in a month of which no more than two such absences may be unexcused.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 230.8 of Title 56, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Commission on Human Services shall establish and maintain a disability benefits project, hereinafter called the project, for the exclusive purpose of providing increased legal assistance for mentally or physically disabled persons to secure federal disability benefits provided through the Social Security Disability Insurance program under Title II of the Social Security Act, through the Supplemental Security Income program under Title XVI of the Social Security Act, and through such other programs subsequently established by Congress to accomplish similar purposes for persons with disabilities. The Department of Human Services may administer or contract with any organization for the purpose of administering the project. The Department may further appoint a disability advisory committee, consisting of members of the legal community including those with experience in advocacy for persons with disabilities, and members of the disabled community, for the purpose of assisting the Department in matters pertaining to the project. The composition of the committee, the terms of its members, and the scope of its responsibilities shall be determined by the Department.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 230.9 of Title 56,

unless there is created a duplication in numbering, reads as follows:

A. The Department of Human Services shall establish and maintain a pilot demonstration program in accordance with the provisions of this section to evaluate the feasibility and effectiveness of alternative methods of assisting custodial parent families in receipt of Aid to Families with Dependent Children benefits to become self-sufficient through the use of child assistance payments for children, instead of Aid to Families with Dependent Children benefits.

B. Where a demonstration program has been authorized, child assistance payments pursuant to the provisions of this section may be made to custodial parents on behalf of minor children in accordance with the criteria specified in this section. The pilot program should permit families with child support orders to use different income counting rules than in the normal AFDC program: the family will receive a lower basic benefit, but then for each dollar of earnings below the poverty line, benefits will be reduced by ten cents (\$0.10); for each dollar over the poverty level, benefits will be reduced by sixty-seven cents (\$0.67); families will lose eligibility once they attain income at one hundred fifty percent (150%) of the federal poverty level.

C. No custodial parent who resides in a county where a demonstration program has been approved by the Department shall be eligible under this program for receipt of child assistance payments for a child, unless:

1. An order of child support for such a child has been made by a district court pursuant to a child support formula established by the Department;

2. The order of child support is payable through the Department or such other administrative mechanism as may be designated by the Commissioner;

3. The parent, subject to a support order, required to pay child support is absent from the home;

4. The custodial parent and the child for whom, or on whose behalf, an application for supplemental child support payments is made is, at such time, a recipient of Aid to Families with Dependent Children benefits; and

5. The custodial parent has not withdrawn from this program within the three (3) months prior to the date of reapplication for benefits under this program.

D. The Department shall provide to all recipients eligible for participation in this program a comparison of the benefits that would be available to the household under both the Aid to

Families with Dependent Children program and the child assistance payments program as provided in this section. The Department shall inform all eligible recipients that participation in this program is voluntary.

E. Participation in this program shall be voluntary. Should a participant elect to terminate his or her participation in this program, then, upon reapplication for Aid to Families with Dependent Children benefits and a subsequent determination of eligibility, such participant shall be restored to benefits effective from the date of reapplication.

F. The Department shall establish such demonstration program unless such federal approvals as are legally required for federal financial participation in such program at the same level or higher as would have been secured under Title IV-A of the federal Social Security Act and related statutes have been obtained.

G. The Department shall develop a research design and methodology for this program. Prior to January 1, 1994, such research design and methodology shall be submitted to the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The research design and methodology shall provide for county participation with varying demographic and economic conditions, and specify the amount of the child

assistance payment and the benefit reduction procedures to be employed in each demonstration.

H. The Department shall provide interim reports to the Governor and the Legislature annually, so long as the demonstration program remains in effect. Such reporting requirement shall commence in the year following the year in which full implementation of this program has occurred. Such interim reports shall include, as appropriate, information on steps being taken to implement the provisions of this section, and preliminary findings concerning the feasibility and effectiveness of the alternative procedures sought to be demonstrated hereunder.

I. Within three (3) years of full implementation of this demonstration program, and no later than six (6) months prior to the expiration of this act, the Department shall report to the Governor and the Legislature on the implementation of this section. Such report shall include an evaluation of the programs conducted under this section, including but not limited to, an assessment of the following:

1. The participation by custodial parents in the program including the number and characteristics of participants;

2. The impact on participation in the Aid to Families with Dependent Children program, taking into consideration variations in the standard of need in social services districts;

3. The impact on the pursuit, enforcement and collection of child support by custodial parents and social services districts;

4. The impact on the work-related behavior of participating custodial parents;

5. The effect of the absence of the noncustodial parent from this state; and

6. The effect of different administrative arrangements on the effect of the absence on the noncustodial parent.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 230.10 of Title 56, unless there is created a duplication in numbering, reads as follows:

The income of a dependent child's stepparent living in the same household as such child shall not be considered in determining the amount of assistance to be paid to a recipient family pursuant to the Aid to Families with Dependent Children program unless the available income of the stepparent exceeds one hundred fifty percent (150%) of the federal poverty level. For determining available income, the Department shall be guided by:

1. The standard of need for a family of the same composition as the stepparent and those other individuals living in the same household as the child who are not applying for or receiving benefits and are claimed by such stepparent as dependents for purposes of determining such stepparent's federal income tax liability;

2. Any amounts paid by the stepparent to individuals not living in such household and claimed by such stepparent as dependents for purposes of determining such stepparent's federal personal income tax liability; and

3. Any payments of alimony or child support made by such stepparent with respect to individuals not living in such household.

SECTION 15. By January 1, 1994, and annually thereafter, the Department of Human Services shall review and evaluate the adequacy of the standard of need for all categories of assistance in this state. Such review and evaluation shall be submitted by July 1, 1994, to the Speaker of the Oklahoma House of Representatives, the President Pro Tempore of the Oklahoma State Senate, and the Governor.

SECTION 16. AMENDATORY 10 O.S. 1991, Section 2, is amended to read as follows:

Section 2. All children of a woman who has been married, born A. A man is presumed to be the natural father of a child for all intents and purposes if:

1. He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within ten (10) months after the dissolution termination of the marriage are presumed to be legitimate children of that marriage by death, annulment, declaration of invalidity, divorce or dissolution, or after a decree of separation is entered by a court. A child born before wedlock becomes legitimate by the subsequent marriage of its his parent even if the marriage is, was or could be declared invalid;

2. Before the child's birth, he and the child's natural mother have cohabitated and the child is born within ten (10) months after the termination of cohabitation;

3. While the child is under the age of majority, he receives the child into his home and openly holds out the child as his natural child for a period of at least two (2) years; or

4. The United States Immigration and Naturalization Service made or accepted a determination that he was the father of the child at the time of the child's entry into the United States and he had the opportunity at the time of the child's entry into the United States to admit or deny the paternal relationship.

B. Any man presumed to be the natural father of a child pursuant to the provisions of this section, may rebut any such presumption.

C. In order to enforce rights of custody and visitation, a man presumed to be the father pursuant to this section must seek appropriate court or administrative orders.

SECTION 17. AMENDATORY 10 O.S. 1991, Section 3, is amended to read as follows:

Section 3. The presumption of legitimacy of a child born pursuant to paragraph 1 of Section 2 of this title can be disputed only by the husband or wife or the descendant of one or both of them. Illegitimacy in such a case may be proved like any other fact. Provided that if the child is born during the course of the marriage and is reared by the husband and wife as a member of their family without disputing the child's legitimacy for a period of at least two (2) years, the presumption cannot be disputed by anyone.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3.1 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. The parent and child relationship between a child and a woman may be established prima facie by proof of her having given birth to the child, or as otherwise provided by law.

B. The parent and child relationship between a child and a man may be established by:

1. A notarized written statement of the father and mother acknowledging paternity pursuant to Section 34 of this act. Such statement acknowledging paternity shall have the same legal effect as an order of paternity entered in a court or an administrative proceeding. Such statement may be contested for a period of not more than two (2) years after signing the statement. Except for the child, after such two (2) years, paternity may not be disputed by anyone. An action to establish paternity shall be available to a child if commenced within two (2) years after the child reaches the age of eighteen (18); or

2. Subsequent scientifically reliable genetic tests, including but not limited to blood tests, which affirm at least a ninety-eight percent (98%) probability of paternity.

SECTION 19. AMENDATORY 10 O.S. 1991, Section 83, is amended to read as follows:

Section 83. A. An individual who has been ^{judicially} legally determined to be the father of a child is liable for the support

and education of the child to the same extent as the father of a child born in wedlock.

B. 1. An action to enforce ^{this} the obligation to support and educate ^{the child} of support and education may be brought by the mother or custodian or guardian of the child, by the public authority chargeable with the support of the child, or by the child.

2. An action to determine paternity and to enforce this obligation may be brought any time before the eighteenth birthday of the child. An action to establish paternity under this act shall be available for any child for whom a paternity action was brought and dismissed because of the application of a statute of limitations of less than eighteen (18) years.

3. If paternity has been ^{judicially} legally determined or if the father has acknowledged in writing that he is the father of the child, an action to enforce this obligation of support may be brought any time before the child reaches majority.

4. The father's obligation to support is terminated if the child is adopted.

5. The court may order the payments made to the mother or custodian or guardian of the child, or to some other person, corporation or agency to administer under the supervision of the court.

An action to establish paternity shall be available to a child if commenced within two (2) years after the child reaches the age of eighteen (18).

b. C. An individual who has been judicially or administratively determined to be the father of a child may be ordered to pay all or a portion of the costs of the birth and the reasonable expenses of providing for said child or the amount of public assistance paid to or for the benefit of said child prior to the determination of paternity, provided that liability for support provided before the determination of paternity ^{may} shall be imposed for ^{only} five (5) years preceding the filing of the action.

c. D. The amount of child support and other support shall be ordered and reviewed in accordance with the child support guidelines provided in Section 118 of Title 43 of the Oklahoma Statutes.

SECTION 20. AMENDATORY 10 O.S. 1991, Section 1132, is amended to read as follows:

Section 1132. A. The termination of parental rights terminates the parent-child relationship, including the parent's right to the custody of the child and his right to visit the child, his right to control the child's training and education, the necessity for the parent to consent to the adoption of the

child and the parent's right to the earnings of the child, and the parent's right to inherit from or through the child. Provided, that nothing herein shall in any way affect the right of the child to inherit from the parent.

B. Upon proof that a termination of child support is requested by a parent to avoid payment of child support or to affect the eligibility of a child for public assistance, the termination of parental rights shall not terminate the duty of a parent to support his child.

SECTION 21. AMENDATORY 12 O.S. 1991, Section 95, as amended by Section 1, Chapter 344, O.S.L. 1992 (12 O.S. Supp. 1992, Section 95), is amended to read as follows:

Section 95. Civil actions other than for the recovery of real property can only be brought within the following periods, after the cause of action shall have accrued, and not afterwards:

First. 1. Within five (5) years: An action upon any contract, agreement or promise in writing.

Second. 2. Within three (3) years: An action upon a contract express or implied not in writing; an action upon a liability created by statute other than a forfeiture or penalty; and an action on a foreign judgment.

Third. 3. Within two (2) years: An action for trespass upon real property; an action for taking, detaining or injuring personal property, including actions for the specific recovery of personal property; an action for injury to the rights of another, not arising on contract, and not hereinafter enumerated; an action for relief on the ground of fraud - the cause of action in such case shall not be deemed to have accrued until the discovery of the fraud.

Fourth. 4. Within one (1) year: An action for libel, slander, assault, battery, malicious prosecution, or false imprisonment; an action upon a statute for penalty or forfeiture, except where the statute imposing it prescribes a different limitation.

Fifth. 5. An action upon the official bond or undertaking of an executor, administrator, guardian, sheriff, or any other officer, or upon the bond or undertaking given in attachment, injunction, arrest or in any case whatever required by the statute, can only be brought within five (5) years after the cause of action shall have accrued.

Sixth. 6. An action based on intentional conduct brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse incidents or exploitation as defined by

Section 845 of Title 21 of the Oklahoma Statutes or incest can only be brought within the latter of the following periods:

- a. within two (2) years of the act alleged to have caused the injury or condition, or
- b. within two (2) years of the time the victim discovered or reasonably should have discovered that the injury or condition was caused by said act or that the act caused the injury for which the claim is brought.

Provided, however, that the time limit for commencement of an action pursuant to this paragraph is tolled for a child until the child reaches the age of eighteen (18) years. No action may be brought against the alleged perpetrator or the estate of the alleged perpetrator after the death of such alleged perpetrator. An action pursuant to this paragraph must be based upon objective verifiable evidence in order for the victim to recover damages for injuries suffered by reason of such sexual abuse, exploitation or incest. The evidence should include both proof that the victim had psychologically repressed the memory of the facts upon which the claim was predicated and that there was corroborating evidence that the sexual abuse, exploitation or incest actually occurred. The victim need not establish which act in a series of continuing

sexual abuse incidents, exploitation incidents or incest caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse, exploitation or incest. Provided further, any action based on intentional conduct specified in paragraph 6 of this section must be commenced within twenty (20) years of the victim reaching the age of eighteen (18).

seventh. 7. An action to establish paternity and to enforce support obligations can be brought any time before the child reaches eighteen (18).

8. An action to establish paternity can be brought by a child if commenced within two (2) years after the child reaches the age of eighteen (18).

9. An action to collect child support obligations can be brought at any time from birth to eighteen (18) or if a child is regularly and continuously attending high school through the age of eighteen (18), and for five (5) years from that time.

10. An action for relief, not hereinbefore provided for, can only be brought within five (5) years after the cause of action shall have accrued.

SECTION 22. AMENDATORY 43 O.S. 1991, Section 112, is amended to read as follows:

Section 112. A. A petition or cross-petition for a divorce, legal separation, or annulment must state whether or not the parties have minor children of the marriage. If there are such children, the court:

1. Shall make provision for guardianship, custody, medical care, support and education of the minor children,

2. Unless not in the best interests of the minor children, may provide for the visitation of the noncustodial parent with any of the children of such noncustodial parent,

3. May modify or change any order whenever circumstances render such change proper either before or after final judgment in the action, provided that the amount of the periodic child support payment shall not be modified retroactively or payment of all or a portion of the past due amount waived, except by mutual agreement of the obligor and obligee, or if the obligee has assigned child support rights to the Department of Human Services or other entity, by agreement of the Department or such entity.

B. In awarding the custody of a minor unmarried child or in appointing a general guardian for the child, the court shall be guided by the provisions of Section 21.1 of Title 10 of the

Oklahoma Statutes and shall consider what appears to be in the best interests of the child.

C. 1. When it is in the best interests of the child, the court shall:

- a. assure minor children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, and
- b. encourage parents to share the rights and responsibilities of child rearing in order to effect this policy.

2. There shall be neither a legal preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody.

3. When in the best interests of a child, custody shall be awarded in such a way so as to assure the frequent and continuing contact of the child with both parents. To this effect, in making an order for custody to either parent, the court:

- a. may consider, among other facts, which parent is more likely to allow the child or children frequent and continuing contact with the noncustodial parent, and

b. shall not prefer a parent as a custodian because of the gender of that parent.

4. In making an order for custody, the court may specify that:

- a. unless there is a prior written agreement to change the permanent residence of the child either parent shall notify the other parent if such parent plans to change the permanent residence of the child.
- b. the noncustodial parent is to notify the custodial parent if such noncustodial parent plans to change permanent residence.

D. Any child shall be entitled to support by the parents until the child reaches eighteen (18) years of age. If a dependent child is regularly and continuously attending high school, said child shall be entitled to support by the parents through the age of eighteen (18) years.

E. In any case in which provision is made for the custody or support of a minor child or enforcement of such order after November 1, 1990, the court may determine whether public assistance money has been provided by the Department of Human Services for the benefit of each such minor child. If public assistance money has been provided for the benefit of the minor

child since the date of the last child support order, the Department of Human Services is a necessary party for just adjudication and establishment of the debt due and owing the State of Oklahoma, as defined in Section 238 of Title 56 of the Oklahoma Statutes and for just adjudication and establishment of current child support.

F. In any case in which a child support order or custody order or both is entered, enforced or modified, the court may make a determination of the arrearages of child support, if any.

SECTION 23. AMENDATORY 43 O.S. 1991, Section 114, is amended to read as follows:

Section 114. ~~When ordered by the court, court-ordered~~ Court-ordered child support payments and court-ordered payments of suit moneys shall draw interest at the rate of ten percent (10%) per year from the date they become delinquent, and the interest shall be collected in the same manner as the payments upon which the interest accrues.

SECTION 24. AMENDATORY 43 O.S. 1991, Section 118, as amended by Section 1, Chapter 251, O.S.L. 1992 (43 O.S. Supp. 1992, Section 118), is amended to read as follows:

Section 118. A. Except in those cases where parties represented by counsel have agreed to a different disposition,

there shall be a rebuttable presumption in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the following guidelines is the correct amount of child support to be awarded. The court may deviate from the level of child support suggested by these guidelines where the amount of support so indicated is unjust, inequitable, unreasonable or inappropriate under the circumstances, or not in the best interests of the child or children involved. In making such determination, the court may take into account the reasonable support obligations of either parent as to other natural or legally adopted minor children in the custody of said parent. If the court deviates from the amount of support indicated by these guidelines, it shall make specific findings of fact supporting such action.

B. Child support guidelines are as follows:

1. All child support shall be computed as a percentage of the combined gross income of both parents. The Child Support Guideline Schedule as provided in Section ^{1277.8} 119 of this title shall be used for such computation. The child support obligations of each parent shall be computed, and the noncustodial parent's share shall be paid monthly to the custodial parent;

2. Gross income includes income from any source, except as excluded in this act, and includes but is not limited to income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, rent, interest income, trust income, annuities, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts and prizes. Specifically excluded are actual child support received for children not before the court and benefits received from means-tested public assistance programs, including but not limited to Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), Food Stamps, General Assistance and State Supplemental Payments for Aged, Blind and the Disabled;

3. For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income is defined as gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Specifically excluded from ordinary and necessary expenses for purposes of this section are amounts determined by the court to be inappropriate for determining gross income for purposes of calculating child support. The court shall carefully review income and expenses

from self-employment or operation of a business to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. A determination of business income for tax purposes shall not control for purposes of determining a child support obligation.

Expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business shall be counted as income if they are significant and reduce personal living expenses. Such payments may include but are not limited to a company car, free housing, or reimbursed meals;

4. For purposes of computing gross income of the parents, the court shall include for each parent, either the actual monthly income, the average of the gross monthly income for the time actually employed during the previous three (3) years, or the minimum wage paid for a forty-hour week, whichever is the most equitable. If equitable, the court may instead impute as gross monthly income for either parent the amount a person with comparable education, training and experience could reasonably expect to earn; provided, however, that if a person is permanently physically or mentally incapacitated, the child support obligation shall be computed on the basis of actual monthly gross income;

5. The amount of any preexisting court order for child support for children not before the court or for support alimony arising in a prior case shall be deducted from gross income to the extent payment is actually made under such order;

6. The amount of reasonable expenses of the parties attributable to debt service for preexisting, jointly acquired debt of the parties may be deducted from gross income to the extent payment of such expenses is actually made. In any case where deduction for such debt service is made, the court may make provision for prospective upward adjustments of support made possible by the reasonable anticipated reduction or elimination of such debt service;

7. The results of paragraphs 2, 3, 4, 5 and 6 of this section shall be denominated "adjusted gross income";

8. The adjusted gross income of both parents shall be added together and the Child Support Guideline Schedule consulted for the total combined child support;

9. After the total combined child support is determined, the percentage share of each parent shall be allocated by computing the percentage contribution of each parent to the combined adjusted gross income and allocating that same percentage to the

child support obligation to determine the base child support obligation of each parent;

10. The actual dependent medical insurance premium shall be determined by the court. The premium shall be allocated between the parents in the same proportion as base child support;

11. The payor shall receive credit for the payee's allocated share of medical insurance premium which the payor pays directly to the provider. The payor shall pay his or her (payor's) allocated share of the medical insurance premiums to payee, if payee pays the premium to the provider;

12. The court shall then determine the "actual" child care expenses reasonably necessary to enable both parents to maintain employment or to conduct an active search for employment;

13. The actual child care costs incurred due to employment or active employment search of either parent, or incurred as a result of either parent actually attending school for the purpose of enhancing their employment or income, shall be allocated in the same proportion as base child support. Provided, if the court determines that it will not cause detriment to the child, in lieu of payment of child care costs incurred while the custodial parent is attending school, the noncustodial parent may be allowed to provide alternate care of the child during such time. The

noncustodial parent shall be designated the "payor". The custodial parent shall be designated the "payee". Payor's proportionate amount of the child care fee for that month shall be paid to the payee on or before the date the child care fee is due to the provider. The court shall require the payee to provide payor with timely documentation of any change in the amount of the child care fee;

14. Visitation transportation expenses shall be determined by the court on a case by case basis and may be allocated in addition to or as a credit against the child support obligation of the payor. Such expenses may be adjusted at any time the court deems it equitable;

15. Payment of reasonable and necessary medical, dental, orthodontic, optometrical, psychological or any other physical or mental health expenses of the child not reimbursed by insurance shall be determined by the court on a case by case basis and may be allocated in addition to the child support obligation of the payor, as a percentage contribution by each parent toward future expenses;

16. If the court adopts a joint custody plan meeting the requirements of Section ^{1275.4} 109 of this title, the plan must provide for the support of the child equivalent to the amount of

combined support the child would otherwise receive under these guidelines. The court shall have the authority, however, to accept a plan which allocates the payment of actual expenses of the children, rather than designating one custodial parent the "payor" and one the "payee", if the court finds the payments allocated to each respective parent are substantially equivalent to the amount of the child support obligation of the parent under these guidelines;

17. If each parent is awarded custody of one or more children, the child support obligation of each parent shall be computed for each custodial arrangement separately using the percentage applicable for the children residing with each parent. The payor obligation of each parent shall be compared with the other. The difference between the obligations of each parent shall be paid to the parent with the smaller payor obligation in order to equalize the child support spent on all of the children, regardless of the custodial arrangements. Other natural or legally adopted minor children of the parties in the custody of either parent may be taken into account in determining child support;

18. The court may make adjustments to child support guidelines for periods of extended visitation;

19. Child support orders may be modified only upon a material change in circumstances. If the court finds there is a basis for modification, the child support guidelines provided in this act shall be used in computing child support, subject to the court's discretion to deviate from the guidelines where the amount of support is unjust, inequitable, unreasonable or inappropriate under the circumstances, or not in the best interests of the child or children involved, and such deviation is supported by specific findings. The enactment of these guidelines alone shall not constitute a material change in circumstances. It shall constitute a material change in circumstances when a child support order provides for one or more children and one of those children reaches majority or is not otherwise entitled to support pursuant to the support order;

20. The child support computation worksheet provided in Section ^{1277.9} 120 of this title shall be signed by the judge; and

21. Child support orders may include such provisions as the court deems appropriate to assure that the child support payments to the custodial parent are used for the support of the child; and

22. Child support orders issued for prior-born children of the payor may not be modified for the purpose of providing support for later-born children.

SECTION 25. AMENDATORY 43 O.S. 1991, Section 137, is amended to read as follows:

Section 137. A. Any payment or installment of child support ordered pursuant to any order, judgment or decree of the district court or administrative order of the Department of Human Services is on and after the date it becomes past due a judgment by operation of law. Such judgments for past due support shall:

1. Have the full force and effect of any other judgment of this state, including the ability to be enforced by any method available under the laws of this state to enforce and collect money judgments; and

2. Be entitled to full faith and credit as a judgment in this state and any other state.

B. Such judgments shall be subject to collection action only after the child support obligor has been given notice and opportunity for a court or administrative hearing to determine the amount that is past due, provided that if the obligor has been given a hearing in some other proceeding to contest the amount past due, he shall not be entitled to another hearing to determine whether amounts are past due for the same time period.

C. Unless execution is issued and filed within ~~five~~ ⁽⁵⁾ ten (10) years from date of judgment or last execution on said judgment as required by law, a judgment for past due child support shall

become dormant for all purposes except for enforcement of the judgment by:

1. An income or wage assignment initiated pursuant to the laws of this state or any other state;
2. Periodic payments from the judgment debtor by order of the district court or of the Department of Human Services; or
3. Referral of the past due amount to the Internal Revenue Service and, if appropriate, to the Oklahoma Tax Commission or another state's taxation agency for interception of the judgment debtor's annual state and federal tax refund in cases being enforced by the Department of Human Services.

D. An order that provides for payment of child support, if willfully disobeyed, may be enforced by indirect civil contempt proceedings, notwithstanding that the support payment is a judgment on and after the date it becomes past due.

SECTION 26. AMENDATORY 43 O.S. 1991, Section 135, is amended to read as follows:

Section 135. A. An arrearage in payment of child support reduced to an order of the court or administrative order of the Department of Human Services or any past due payment or installment of child support that is a judgment by operation of

law may be a lien against the real and personal property of the person ordered to make such support payments.

B. Past due amounts of child support shall not become a lien upon the real and personal property of the person ordered to make such payments until said person has been given notice and opportunity for a court or administrative hearing to determine the amount that is past due, provided that if said person has been given a hearing in some other proceeding to contest the amount past due, he shall not be entitled to another hearing to determine whether amounts are past due for the same time period.

C. A certified copy of the judgment or order providing for the payment of an arrearage of child support or, subject to the provisions of subsection B of this section, a certified copy of a judgment or order providing for payment of child support pursuant to which a past due amount has accrued may be filed with the county clerk of the county where real property owned by the person obligated to pay support is situated and shall, from the time it is filed of record, become a lien upon such real property, or upon any real property which may be acquired by such person prior to the release of the lien, for the amount of the arrearage. The judgment or order shall not become a lien for any sums prior to the date they severally become due and payable.

D. 1. Judgments or orders providing for the payment of an arrearage of child support or, subject to the provisions of subsection B of this section, a judgment or order providing for payment of child support pursuant to which a past due amount has accrued shall become a lien upon the personal property of the person ordered to pay such support upon:

- a. the filing of an affidavit and a certified copy of the judgment or order in the office of the county clerk of the county in which the personal property is situated; and
- b. issuance of execution on such judgment or order and levy of execution upon such personal property; and
- c. the taking of physical possession thereof; or
- d. the filing of an affidavit and a certified copy of the judgment or order with the Administrator of the Workers' Compensation Court, if a proceeding for compensation under the Workers' Compensation Act has been initiated by or on behalf of the obligor.

2. The affidavit provided for in paragraph 1 of this subsection shall identify:

- a. the case;

- b. whether the judgment or order was rendered by the Department of Human Services or by the court, and if by the court, then the name of such court;
- c. the name of the person against whom the judgment or order was rendered;
- d. the name of the person for whom the judgment or order was rendered;
- e. the principal sum of the judgment or order for arrearages or the amount that is past due pursuant to the judgment or order; and
- f. the date on which the judgment or order was rendered.

3. Upon the filing of an affidavit under this section, a copy of the affidavit shall be mailed by certificate of mailing to the last-known address of the obligor and to all attorneys and insurance carriers of record.

E. The provisions of this section shall not authorize a sale of any property to enforce a lien which is otherwise exempted by state law.

F. A lien shall be released upon the full payment of the amount of the arrearage.

G. The person entitled to such support or the Department of Human Services on behalf of its clients and recipients is authorized to enforce the liens created pursuant to this section and to execute releases or partial releases of such liens.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 166.1 of Title 56, unless there is created a duplication in numbering, reads as follows:

Any person who makes application with the Department of Human Services for medical assistance resulting from the birth of any child, in order to be eligible for such assistance, shall provide the name of the person or persons legally responsible for the support of such child prior to receipt of any such medical assistance.

SECTION 28. AMENDATORY 56 O.S. 1991, Section 237, as amended by Section 2, Chapter 153, O.S.L. 1992 (56 O.S. Supp. 1992, 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 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;

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.

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. The obligor shall notify the Department of any change of address or employer.

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 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 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 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 238.3A of Title 56, unless there is created a duplication in numbering, reads as follows:

A. If a father has signed an affidavit acknowledging paternity, pursuant to Section 34 of this act, which has been filed with the State Registrar of Vital Statistics or paternity

has been established by blood tests or other genetic tests, the Department of Human Services may serve a notice of paternity and support obligation on him. Venue for such action shall be, at the option of the plaintiff, in the county where the mother, father or child resides. Service of the notice shall be in the same manner as a summons in a civil action.

B. The notice shall have attached to it a copy of the affidavit acknowledging paternity or blood or other genetic test results and shall state:

1. The name and date of birth of any minor children, along with the name of the natural mother and custodian, if different than the mother;

2. The amount of child support and other support to be ordered in accordance with the Child Support Guidelines provided in Section 118 of Title 43 of the Oklahoma Statutes;

3. The amount of reimbursement for the costs of the birth and the reasonable expenses of providing for said child or the amount of public assistance paid to or for the benefit of the child which has accrued or is accruing, provided that the liability for the above costs shall be imposed for five (5) years preceding the issuance of the notice;

4. That the father shall be required to maintain health insurance for the child whenever he has such insurance available through his employment or other group health insurance plan and pay his proportionate share of any unreimbursed health costs;

5. The amount of reimbursement requested for the costs of the blood test to determine paternity, if any;

6. That an immediate income assignment will be effectuated for payment of current support and any judgment entered;

7. That if the affidavit acknowledging paternity was signed within two (2) years of the date of the notice, the father may dispute paternity and request a blood test or other genetic test to determine paternity. If he is not excluded and the blood test or other genetic test results show less than a ninety-eight percent (98%) probability of paternity, he may request that the Department initiate an action in district court to determine paternity. If the father does not request the Department to initiate a court action within thirty (30) days of the Department mailing the blood test or other genetic test results, or if he fails to appear and submit to any required blood test or other genetic test, the Notice of Paternity and Support Obligations shall become final for all intents and purposes and may be overturned only by subsequent court order;

8. The father may object to the Notice of Paternity and Support Obligations and within twenty (20) days of the date of service, may request a hearing to show cause why he should not be determined to be the father of any such children, liable for the support requested in the notice, for the costs accrued and accruing and the amount to be paid thereon;

9. That if no hearing is requested on or before twenty (20) days from the date of service, the finding of paternity and support obligations shall be made an administrative order subject to enforcement action. The order may be docketed with the district court in the county of residence of the custodian of the child or if the custodian resides out of state, with the district court in the county of residence of the obligor. The support order shall be enforced in the same manner as an order of the district court.

C. The Department may accept voluntary acknowledgments of support liability and support amounts.

D. If the father's name has not been entered on the child's birth certificate, the Department of Human Services shall contact the State Registrar of Vital Statistics and shall enter the father's name on the birth certificate.

E. Prior to the issuance of the notice of paternity and support obligation, a father who denies paternity may request that a blood test or other genetic test be administered. The request for testing shall be in writing and served on the Department personally or by registered or certified mail.

F. If a request for testing is made pursuant to subsection B or E of this section, the Department shall arrange for the test and, pursuant to rules adopted by the Department, may advance the cost of such testing. The Department shall mail a copy of the test results by a certificate of mailing to the father's last-known address.

G. If the test excludes the father from being a natural parent, the Department shall file a copy of the results with the State Registrar of Vital Statistics and shall dismiss any pending court or administrative collection proceedings based upon the affidavit acknowledging paternity. The State Registrar of Vital Statistics shall remove the father's name from the birth certificate.

SECTION 30. AMENDATORY 56 O.S. 1991, Section 238.6, is amended to read as follows:

Section 238.6 A. The administrative procedures provided for by the provisions of Sections 238.1, ^{238.3} and 238.4 of this title

shall be available, in the absence of a court order, to determine the support debt accrued and accruing for children receiving public assistance in this state or in other states where said sister state has requested the assistance of the Department of Human Services in establishing and enforcing the support debt created through payment of public assistance under the program of Aid to Families with Dependent Children, pursuant to the provisions of Title IV-D of the Social Security Act, as amended.

B. Said administrative procedures shall also be available, in the absence of a court order, to determine the amount of periodic support payments due from a debtor to the custodian or guardian of minor children not receiving Aid to Families with Dependent Children who has made proper application for services in establishing and enforcing the child support obligation of a debtor, pursuant to the provisions of Title IV-D of the Social Security Act, as amended, whether said application was made in this state or in another state.

C. Said administrative procedures shall also be available to implement those provisions of subsection J of Section 1171.3 of Title 12 of the Oklahoma Statutes, with regard to immediate income withholding. Notice of immediate income withholding shall be sent by the Department in the same manner as prescribed in subsection E of Section 240.2 of this title.

D. Said administrative process shall be available to any party specified in this section who has actual custody of a child.

SECTION 31. AMENDATORY 63 O.S. 1991, Section 1-311, is amended to read as follows:

Section 1-311. (a) A. A certificate of birth for each live birth which occurs in this state shall be filed with the local registrar of the district in which the birth occurs, within seven (7) days after such birth. Provided, that when a birth occurs on a moving conveyance, a birth certificate shall be filed in the district in which the child was first removed from the conveyance.

(b) B. When a birth occurs in an institution, the person in charge of the institution or his designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file it with the local registrar. The physician in attendance shall certify to the facts of birth and provide the medical information required by the certificate within five (5) days after the birth.

(c) C. When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

(1) 1. The physician in attendance at or immediately after the birth, or in the absence of such a person, i

(2) 2. Any other person in attendance at or immediately after the birth, or in the absence of such a person, ; OR

(3) 3. The father, the mother, or, in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred and present at the birth.

(d) (1) D. 1. If the mother was married either at the time of conception or birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered.

(2) 2. If the mother was not married either at the time of conception or birth, the name of the father shall not be entered on the certificate of birth without the written consent of the mother and the person to be named as the father, unless:

- a. a determination of paternity has been made by an administrative action through the Department of Human Services or a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered,
- b. the mother and father have signed an affidavit acknowledging paternity pursuant to Section 34 of

this act and filed it with the State Registrar of
Vital Statistics, or

c. blood test results establishing the probability of
paternity at ninety-eight percent (98%) or higher
are filed with the State Registrar of Vital
Statistics.

(e) E. Either of the parents of the child shall sign the certificate of live birth to attest to the accuracy of the personal data entered thereon, in time to permit its filing within the seven (7) days prescribed above.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-311.2 of Title 63, unless there is created a duplication in numbering, reads as follows:

The State Registrar of Vital Statistics shall provide to the Department of Human Services the birth certificates, the mother's and father's social security numbers and affidavits acknowledging paternity and any blood test or other genetic test results.

SECTION 33. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-311.3 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Upon the birth of a child to an unmarried woman, the attending physician, midwife, or his or her agent shall:

1. Provide an opportunity for the child's mother and natural father to complete an affidavit acknowledging paternity. The completed affidavit shall be filed with the local registrar. The affidavit shall contain or have attached:

- a. a sworn statement by the mother consenting to the assertion of paternity and stating that this is the only possible father,
- b. a statement by the father that he is the natural father of the child,
- c. written information, furnished by the Department of Human Services, explaining the implications of signing, including parental rights and responsibilities, and
- d. the social security numbers of both parents; and

2. Provide written information, furnished by the Department of Human Services, to the mother regarding the benefits of having her child's paternity established and of the availability of paternity establishment services, including a request for support enforcement services.

B. The physician or midwife is entitled to reimbursement for reasonable costs, which the State Board of Health shall establish by rule, when an affidavit acknowledging paternity is filed with the State Registrar of Vital Statistics.

SECTION 34. AMENDATORY 85 O.S. 1991, Section 48, is amended to read as follows:

Section 48. ^{claims} Except for payment of child support, claims for compensation or benefits due under the Workers' Compensation Act shall not be assigned, released or commuted except as provided by the Workers' Compensation Act, and shall be exempt from all claims of creditors and from levy, execution or attachment or other remedy for recovery or collection of a debt, which exemption may not be waived. Compensation and benefits shall be paid only to employees; provided, that if an employee dies as a result of his accidental personal injury or occupational disease, any unaccrued portions of an award or order for compensation benefits shall abate.

The term "dependent", as used in this section, means actually dependent in fact upon the deceased employee, and refers only to a person who received more than half of his support from the employee. 1. An award made to a claimant for permanent partial disability under the provisions of the Workers' Compensation Act

shall, in case of the death of the claimant, due to causes other than his injury for which he has been awarded permanent partial compensation, be payable to and for the benefit of the following persons:

(a) If there is a surviving spouse and no child of the deceased under the age of eighteen (18) years, to the surviving spouse.

(b) If there is a surviving child or children of the deceased under the age of eighteen (18) years, or dependent blind or dependent crippled child or children of any age, but no surviving spouse then for the support of each such child, to share and share alike until the full payment of the award.

(c) If there is a surviving spouse, a surviving child or children of the deceased under the age of eighteen (18) years, or a dependent blind or dependent crippled child or children of any age, one-half (1/2) shall be payable to the surviving spouse and the other half to the surviving child or children.

(d) If there is no surviving spouse or child under the age of eighteen (18), or dependent blind or dependent crippled child of any age, then to the dependent parents to share and share alike, and if there are no dependent parents, then to the dependent brothers and sisters, to share and share alike.

(e) In the event the claimant is survived by none of the above named, then the award for compensation benefits shall abate.

2. If claimant has been adjudged a permanent totally disabled person prior to his death, and such death has resulted from causes other than his accidental personal injury or occupational disease causing such total permanent disability, the award may be revived and made payable to the following persons:

(a) If there is a surviving spouse, to such surviving spouse, fifty percent (50%) of the average weekly wages the deceased was earning, but in no event more than a maximum of Fifty Dollars (\$50.00) per week.

(b) If there is a surviving spouse and dependent children under the age of eighteen (18) years or dependent blind or dependent crippled child of any age, the surviving spouse shall receive the amount set forth in subparagraph (a) of this paragraph and in addition the following amounts shall be paid:

(1) To one dependent child, fifteen percent (15%) of the weekly benefits awarded employee, but in no event more than a maximum of Fifteen Dollars (\$15.00) per week.

(2) To two or more dependent children, twenty-five percent (25%) of the weekly benefits awarded employee, but in no event more than a maximum of Twenty-five Dollars (\$25.00) per week,

which shall be divided among the children, to share and share alike.

(c) If there is no surviving spouse, but there is a surviving child under the age of eighteen (18) years, or a dependent blind or dependent crippled child of any age, the child shall receive twenty-five percent (25%) of the weekly benefits awarded the decedent, but in no event more than a maximum of Twenty-five Dollars (\$25.00) per week.

(d) If there is no surviving spouse, but there are two or more surviving children under the age of eighteen (18) years, or dependent blind or dependent crippled children of any age, the children shall receive fifty percent (50%) of the weekly benefits awarded the decedent, but in no event more than a maximum of Fifty Dollars (\$50.00) per week, which shall be divided among the children to share and share alike.

(e) The income benefits payable for the benefit of any child under this section shall cease when ^{he} the child dies, marries or reaches the age of eighteen (18) years, or when a child over eighteen (18) years of age ceases to be physically or mentally incapable of self-support, or if actually dependent ceases to be actually dependent, or if enrolled as a full-time student in any accredited educational institution, ceases to be so enrolled or

reaches the age of twenty-three (23) years. A child who originally qualified as a dependent by virtue of being less than eighteen (18) years of age may, upon reaching age eighteen (18) years, continue to qualify if ^{he} the child satisfies the tests of being physically or mentally incapable of self-support, actually dependent or enrolled in an accredited educational institution.

(f) If there is no surviving spouse or children under the age of eighteen (18) years or dependent blind or dependent crippled children of any age, then to the surviving dependent parents of the decedent fifty percent (50%) of the weekly benefits awarded the employee, but in no event more than a maximum of Fifty Dollars (\$50.00) per week. If there is only one dependent surviving parent, then the surviving dependent parent shall receive twenty-five percent (25%) of the weekly benefits awarded employee, but in no event more than a maximum of Twenty-five Dollars (\$25.00) per week. Payments shall continue during the dependent parent's lifetime and shall abate upon the death of the dependent parent or when the dependent parent is no longer dependent.

(g) If there is no surviving dependent persons as set forth herein, the award for compensation benefits shall abate.

(h) The maximum weekly income benefits payable for all persons in case of the employee's death due to causes other than

the accidental personal injury or occupational disease shall not exceed seventy-five percent (75%) of the average weekly wage of the employee, subject to the maximum limits of compensation set forth in Section 22 of this title.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 48.1 of Title 85, unless there is created a duplication in numbering, reads as follows:

A. A lien against workers' compensation benefits is authorized for the purpose of enforcing a judgment for child or spousal support. Such lien shall be filed in accordance with Section 135 of Title 43 of the Oklahoma Statutes. Additionally, all income assignments or wage assignments for child or spousal support issued pursuant to Section 1170 of Title 12 of the Oklahoma Statutes or Section 240 of Title 56 of the Oklahoma Statutes are specifically authorized and shall be paid in accordance with such statutes without any further order of the Workers' Compensation Court.

B. Venue for purposes of subsection B of Section 1171.3 of Title 12 of the Oklahoma Statutes and subsection E of Section 240.2 of Title 56 of the Oklahoma Statutes shall be either the

location of the employer's insurance carrier or the employer's place of business within Oklahoma.

SECTION 36. This act shall become effective September 1, 1993.

44-1-1042

KS