

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1575

By: Williams

AS INTRODUCED

An Act relating to children; amending 10 O.S. 1991, Sections 2 and 3, which relate to paternity; setting certain presumptions; restricting certain presumptions; providing for certain affidavits acknowledging paternity; providing forms, contents, procedures and determinations; setting certain conditions; providing for issuance of birth certificates; providing for applications; authorizing fees; requiring certain filings; providing for certain actions and orders; amending 10 O.S. 1991, Section 83, which relates to support; providing for support; removing certain restrictions; limiting certain actions; requiring certain costs; amending 10 O.S. 1991, Section 1132, which relates to parents-child relationship under termination; requiring support; amending 12 O.S. 1991, Section 95, as amended by Section 1, Chapter 344, O.S.L. 1992 (12 O.S. Supp. 1992, Section 95), which relates to limitation of actions; specifying time periods for certain actions; amending 43 O.S. 1991, Sections 114, 116, 117 and 118, as amended by Section 1, Chapter 251, O.S.L. 1992 (43 O.S. Supp. 1992, Section 118), which relate to child support enforcement; requiring payment of certain interest

on certain child support orders; prohibiting certain fraudulent transfers; providing for certain determinations; defining terms; requiring certain guaranties; requiring certain modifications; prohibiting defined payments; prohibiting certain qualifications and conditions; making certain property available; removing certain discretion of the court; providing for material changes; amending 43 O.S. 1991, Section 137, which relates to certain payments; removing certain dormancy; making certain judgements enforceable for specified time period; requesting Supreme Court to establish guidelines for indirect contempt and purge fees; providing for contents; prohibiting certain actions; requiring certain information; providing for eligibility requirements; amending 56 O.S. 1991, Sections 237, as amended by Section 2, Chapter 153, O.S.L. 1992, and 238.6 (56 O.S. Supp. 1992, Section 237), which relate to collection of child support; requiring change of address; providing for availability of certain process; amending 56 O.S. 1991, Section 240.2, which relates to income assignments; prohibiting prorating of income assignments; amending 63 O.S. 1991, Section 1-311, which relates to birth certificates; clarifying paternity process; requiring certain information; providing for certain affidavit of paternity; providing contents; amending 85 O.S. 1991, Section 48; which relates to Worker's Compensation Act; authorizing use of certain Workers' Compensation benefits for child support; providing for noncodification;

providing for codification; and providing an effective date.

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

SECTION 1. 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 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;

2. After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid and:

- a. he has acknowledged his paternity of the child in writing filed with the State Registrar of Vital Statistics,
- b. with his consent, he is named as the child's father on the child's birth certificate, or
- c. he is obligated to support the child under a written voluntary promise or by court order;

3. Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in

apparent compliance with law, although the attempted marriage is or could be declared invalid, and the child is born within ten (10) months after the termination of cohabitation;

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

5. He acknowledges his paternity of the child in a writing filed with the State Registrar of Vital Statistics, which shall promptly inform the mother of the filing of the acknowledgment, if she does not dispute the acknowledgment within a reasonable time after being informed thereof, in a writing filed with the State Registrar of Vital Statistics. In order to enforce rights of residential time, custody and visitation, a man presumed to be the father as a result of filing a written acknowledgement must seek appropriate judicial orders under this title; or

6. 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.

SECTION 2. AMENDATORY 10 O.S. 1991, Section 3, is amended to read as follows:

Section 3. A. A presumption under Section 2 of this title may be rebutted in an appropriate action only by clear, cogent and convincing evidence. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man.

B. 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 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 55.2 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. If a putative father has signed an affidavit acknowledging paternity which has been filed with the State Registrar of Vital Statistics or has filed with the paternity registry pursuant to Section 55.1 of Title 10 of the Oklahoma Statutes, the Child Support Enforcement Division of the Department of Human Services may serve a notice and finding of parental responsibility on him. Service of the notice shall be in the same manner as a summons in a civil action or by certified mail, return receipt requested. The notice shall have attached to it a copy of the affidavit and shall state that:

1. The putative father may file an application for an adjudicative proceeding at which he will be required to appear and show cause why the amount stated in the finding of financial responsibility as to support is incorrect and should not be ordered;

2. A putative father may request that a blood test be administered to determine whether such test would exclude him from being a natural parent and, if not excluded, may subsequently request that the Child Support Enforcement Division initiate an action in district court to determine the existence of the parent-child relationship;

3. If the putative father does not request that a blood test be administered or file an application for an adjudicative proceeding, the amount of support stated in the notice and finding of parental responsibility shall become final, subject only to a subsequent

court or administrative determination that the parent-child relationship does not exist. Provided such court or administrative determination can only be had within a period of two (2) years of signing an affidavit acknowledging paternity, filing with the paternity registry pursuant to Section 55.1 of Title 10 of the Oklahoma Statutes, or notification or finding of paternity by the Department of Human Services or by the court; and

4. If the putative 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 putative father's name on the birth certificate.

B. A putative father who objects to the amount of support requested in the notice may file an application for an adjudicative proceeding up to twenty (20) days after the date the notice was served. An application for an adjudicative proceeding may be filed within one (1) year of service of the notice and finding of parental responsibility without the necessity for a showing of good cause or upon a showing of good cause thereafter. The only issues shall be the amount of the accrued debt, the amount of the current and future support obligation and the reimbursement of the costs of blood tests if advanced by the Department of Human Services.

C. If the application for an adjudicative proceeding is filed within twenty (20) days of service of the notice, collection action shall be stayed pending a final decision by the Department. If no application is filed within twenty (20) days:

1. The amounts in the notice shall become final and the debt created therein shall be subject to collection action; and

2. Any amounts so collected shall neither be refunded nor returned if the parent is later found not to be the father.

D. A putative father who denies being a responsible parent may request that a blood test be administered at any time. The request for testing shall be in writing and served on the Child Support

Enforcement Division personally or by registered or certified mail. If a request for testing is made, 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 certified mail, return receipt requested, to the putative father's last-known address.

E. If the test excludes the putative father from being a natural parent, the Child Support Enforcement Division shall file a copy of the results with the State Registrar of Vital Statistics and shall dismiss any pending administrative collection proceedings based upon the affidavit in issue. The State Registrar of Vital Statistics shall remove the putative father's name from the birth certificate.

F. The putative father may, within twenty (20) days after the date of receipt of the test results, request the Child Support Enforcement Division to initiate an action to determine the existence of the parent-child relationship. If the Child Support Enforcement Division initiates a district court action at the request of the putative father and the decision of the court is that the putative father is a natural parent, the putative father shall be liable for court costs incurred.

G. If the putative father does not request the Child Support Enforcement Division to initiate a court action, or if the putative father fails to appear and cooperate with blood testing, the notice of parental responsibility shall become final for all intents and purposes and may be overturned only by a subsequent court order.

SECTION 4. AMENDATORY 10 O.S. 1991, Section 83, is amended to read as follows:

Section 83. A. An individual who has been judicially 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 of support and education to support and educate the child 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 determined or if the father has acknowledged in writing that he is the father of the child, an action to enforce this obligation 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 of the child reaching the age of eighteen (18).

~~B.~~ C. 1. 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 be imposed for only five (5) years preceding the filing of the action.

2. Any putative father who has acknowledged the paternity of the child or whose name has been entered on the birth certificate of a child shall 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 the child. The provisions of this paragraph shall have retrospective and prospective applications.

~~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 5. 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. Except for termination of parental rights for purposes of adoption, the termination of parental rights shall not terminate the duty of a parent to support his child.

SECTION 6. 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 of the child reaching the age of eighteen (18).

9. An action to collect child support obligations can be brought at any time before the child reaches eighteen (18).

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

Section 114. ~~When ordered by the~~ The court, shall require that 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 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 115.1 of Title 43, unless there is created a duplication in numbering, reads as follows:

A. A transfer made or obligation incurred by an obligor is fraudulent as to a person entitled to receive child support, whether the claim of the person entitled to receive child support arose before or after the transfer was made or the obligation was incurred, if the obligor made the transfer or incurred the obligation:

1. With actual intent to hinder, delay or defraud the person entitled to receive child support of the obligor; or

2. Without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the obligor:

a. was engaged or was about to engage in a business or a transaction for which the remaining assets of the obligor were unreasonably small in relation to the business or transaction, or

b. intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

B. In determining actual intent pursuant to the provisions of paragraph 1 of subsection A of this section, consideration may be given, among other factors, to whether:

1. The transfer or obligation was to a relative;

2. The obligor retained possession or control of the property transferred after the transfer;
3. The transfer or obligation was disclosed or concealed;
4. Before the transfer was made or obligation was incurred, the obligor had been sued or threatened with suit;
5. The transfer was of substantially all the obligor's assets;
6. The obligor absconded;
7. The obligor removed or concealed assets;
8. The value of the consideration received by the obligor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;
9. The transfer occurred shortly before or shortly after a child support order was issued; and
10. The obligor transferred the essential assets of the business to a lienor who transferred the assets to a relative of the obligor.

C. For purposes of this section:

1. "Relative" means an individual related by consanguinity within the third degree as determined by common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree; and

2. "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease and creation of a lien or other encumbrance.

SECTION 9. AMENDATORY 43 O.S. 1991, Section 116, is amended to read as follows:

Section 116. The court ~~may~~ shall order a person obligated to support a minor child to post a security, bond, or other guarantee in a form and amount satisfactory to the court to ensure the payment of child support.

SECTION 10. AMENDATORY 43 O.S. 1991, Section 117, is amended to read as follows:

Section 117. A. Except as otherwise provided by subsection B of this section, the person obligated to pay support or the person entitled to the support may petition the court to:

1. Modify, suspend, or terminate the order for income assignment because of a modification, suspension, or termination of the underlying order for support; or

2. Modify the amount of income to be withheld to reflect payment in full of the delinquency by income assignment or otherwise; or

3. Suspend the order for income assignment because of inability to deliver income withheld to the person entitled to support payments due to the failure of the person entitled to support to provide a mailing address or other means of delivery.

B. If the income assignment has been initiated by the Department of Human Services, the court shall notify the Department of Human Services prior to the termination, modification, or suspension of the income assignment order.

C. Child support orders providing for more than one child shall be modified whenever a child reaches majority or is not otherwise entitled to support pursuant to the support order.

SECTION 11. 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 children in the custody of said parent;~~ provided, the court shall not allow any deferred payment of child support. 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. Except for the homesteads of either or both parents, any vested interest in real or personal property shall be deemed to be available for determining the percentage share of each parent's contribution for child support;

11. 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.~~ 12. 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.~~ 13. 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.~~ 14. 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.~~ 15. 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.~~ 16. 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.~~ 17. 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.~~ 18. 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 minor children of the parties may be taken into account in determining child support;~~

~~18.~~ 19. The court may make adjustments to child support guidelines for periods of extended visitation;

~~19.~~ Child 20. Except as otherwise provided by Section 117 of this title, 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. In determining whether there has been a material change in circumstances there must be a showing of a ten percent (10%) or greater deviation from the computed gross income of a parent for purposes of the child support order;

~~20.~~ 21. The child support computation worksheet provided in Section ~~1277.9~~ 120 of this title shall be signed by the judge; and

~~21.~~ 22. 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.

SECTION 12. 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) 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. Except as otherwise provided by court order, a judgment for past due child support shall be enforceable until the eighteenth birthday of the child.~~

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 13. The Legislature hereby requests the Oklahoma Supreme Court to adopt guidelines for indirect contempt and purge fees which shall include the following:

1. That if a nonsupporting parent has taken measures to avoid the jurisdiction of the Court, or has moved from the jurisdiction of the Court, a requirement that a performance bond be posted with the Court or collateral be pledged in an amount sufficient to cover the unpaid child support obligation;

2. That if no proven disability exists on the part of the nonsupporting parent, all adjudged arrearages for and relating to the support of the minor children shall be paid in no more than three (3) years;

3. That if the arrearage of child support is an amount in excess of Five Thousand Dollars (\$5,000.00), or if the arrearage is equal to or greater than two (2) years' unpaid support, the required six-month sentence may not be suspended for the nonsupporting parent unless and until the unpaid balance is paid in full. Further, the nonsupporting parent shall be required to pay a fine in the maximum amount as allowed by statute; and

4. That if the nonsupporting parent had the earning capacity to pay the support, and willfully disobeyed the order of the Court, and the arrearage covers a period of six (6) months or more, but less than two (2) years, the parent shall be fined Five Hundred Dollars (\$500.00) as allowed by statute, and sentence shall be suspended only upon payment of a minimum of fifty percent (50%), or one-half (1/2) of the arrearage, with the balance of the arrearage to be paid in the following six (6) months.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 852.2 of Title 21, unless there is created a duplication in numbering, reads as follows:

Any person who shall knowingly feed, lodge, clothe, arm, equip in whole or in part, harbor, aid, assist or conceal in any manner any person seeking to avoid providing necessary food, clothing, shelter, court-ordered monetary child support or medical assistance for a child pursuant to Section 852 of Title 21 of the Oklahoma Statutes shall be, upon conviction, found guilty of a misdemeanor.

SECTION 15. 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 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 231.1 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Commission for Human Services shall revise the schedule of benefits to be paid to a recipient family under the program of

Aid to Families with Dependent Children (AFDC) pursuant to the provisions of this act.

B. For families receiving benefits pursuant to the AFDC program on July 1, 1993, the Commission shall eliminate the increment in benefits under the program for which that family would otherwise be eligible as a result of the birth of another child:

1. During the period in which the family is eligible for AFDC benefits; or

2. During a temporary period in which the family or adult recipient is ineligible for AFDC benefits pursuant to a penalty imposed by the Department of Human Services for failure to comply with benefit eligibility requirements, subsequent to which the family or adult recipient is again eligible for benefits.

SECTION 17. 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.

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 18. 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 19. AMENDATORY 56 O.S. 1991, Section 240.2, is amended to read as follows:

Section 240.2 A. The person entitled to receive child support payments may request an income assignment order to take effect by submitting to the Department an affidavit specifying:

1. That the obligor has failed to make child support payments required by a child support order in an amount equal to the child support payable for one (1) month;

2. A certified copy of the support order and all subsequent modifications or orders thereto;

3. The amount of the support order and the amount of arrearage;

4. That some person or entity, known or unknown, is indebted to or has earnings in his possession or under his control belonging to the obligor; and

5. That the indebtedness or earnings specified in the affidavit are, to the best of the knowledge and belief of the person making such affidavit, not exempt by law.

B. 1. Upon application by the person entitled to receive child support payments, verifying that the obligor has failed to make child support payments in an amount equal to the child support payable for one (1) month, the Department shall advise the obligor of the intention to effectuate income assignment by a notice of delinquency. The Department may give such notice by mailing the notice of delinquency, by certified mail, return receipt requested, to the last-known address of the obligor, a notice of delinquency. The notice of delinquency shall be postmarked no later than ten (10) days after the date on which the application was submitted. The notice shall inform the obligor of the following:

- a. that the obligor is alleged to be delinquent under a support order in a specified amount,
- b. that an assignment will become effective against the obligor's earnings unless within fifteen (15) days of the date of mailing of the delinquency notice, said date of mailing to be specified in the notice, the obligor requests a hearing,
- c. that at the hearing, if requested, the obligor may contest the claimed delinquency only with regards to mistakes of identity or to the existence or the amount of the delinquency, and
- d. that the assignment shall remain in effect for as long as the order for support upon which it is based and

that payment of any arrearages will not prevent an income assignment from taking effect.

2. a. An obligor may request a hearing pursuant to this section by delivering written notice, with his address thereon, to the Department of Human Services on or before the 15th day from the date of mailing of the delinquency notice. On receipt of the request for hearing, the Department shall promptly enter the appearance of the obligor, set the matter for a hearing within fifteen (15) days of the request for a hearing, and shall send written notice of the hearing to all parties. The Department shall promptly hear and determine the matter and, unless the obligor successfully shows that there is a mistake of identity or a mistake to the existence, or the amount of the delinquency, the Department shall order that the assignment of earnings take effect against the nonexempt earnings of the obligor.
- b. The Department may order an obligor to pay all costs involved in an income assignment proceeding under this subsection.
- c. The order shall be a final judgment for purposes of appeal. The effect of the income assignment shall not be stayed on appeal except by order of the court pursuant to Section 240.3 of this title.
- d. The Department shall send a notice of the income assignment to the payor to effectuate the assignment pursuant to subsection E of this section.

C. If within fifteen (15) days of date of mailing of the delinquency notice, the obligor fails to request a hearing, pursuant to subsection B of this section, the Department shall enter an order approving the income assignment and the administrative order shall

thereafter be subject to collection action and may be docketed with the district court and thereafter enforced in the same manner as an order of the district court.

D. The Department shall ensure that such documents are in order and shall send a notice of the income assignment to the payor pursuant to subsection E of this section to effectuate the assignment.

E. 1. The notice of the income assignment required pursuant to subsections B and C of this section shall be sent by the Department to the payor listed on the application. The notice shall be sent by certified mail, return receipt requested, or served in accordance with law. The payor shall be required to comply with the provisions of this subsection as stated in the notice. The notice shall specify:

- a. the effective date of the assignment. The assignment shall take effect on the next payment of earnings to the obligor after the payor received notice thereof and the amount withheld shall be sent to the Department within ten (10) days of the date upon which the obligor is paid~~†~~†
- b. the amount to be withheld from the obligor's earnings each pay period for support and for arrearage. The amount withheld by the payor shall not exceed the limits on the percentage of an obligor's income which may be assigned for support pursuant to Section 1171.2 of Title 12 of the Oklahoma Statutes~~†~~†
- c. that the income assignment is binding upon the payor until order of the court or the Department, or as long as the order for support on which it is based~~†~~†
- d. that the payor is liable for any amount up to the accumulated amount that should have been withheld if

the payor fails to withhold the earnings in accordance with the provisions of the assignment†, and

- e. that two or more income assignments may be levied concurrently up to the wage withholding restrictions. Any current support due shall be paid before the payment of any arrearages†, and
- f. that if the payor is the obligor's employer, the payor shall notify the Department when the obligor terminates employment. The payor shall provide to the Department, the obligor's last-known address and the name of the obligor's new employer, if known†, and
- g. that if the payor has no income due or to be due to the obligor in his possession or control, or if the obligor has terminated employment with the payor prior to the receipt of notice required pursuant to subsection D of this section, or the amount of the assignment exceeds the amount authorized pursuant to Section 1171.2 of Title 12 of the Oklahoma Statutes, the payor shall send written notice to the Department within ten (10) days of receipt of said notice. Failure to notify the Department within the required time limit may subject the payor to liability for an amount up to the accumulated amount that is due and owing upon receipt of the notice†, and
- h. that the payor may also be fined not more than Two Hundred Dollars (\$200.00) for failure to make the required deductions.

2. The payor may combine withheld amounts from earnings of two or more obligors in a single payment and separately identify that portion of the single payment which is attributable to each individual obligor.

3. An income assignment issued pursuant to the provisions of this section shall have priority over any prior or subsequent garnishments of the same wages.

4. The payor may deduct from any earnings of the obligor a sum not exceeding Five Dollars (\$5.00) per pay period as reimbursement for costs incurred in the income assignment.

5. The assignment shall remain effective upon notice to the new payor.

6. The income assignment issued pursuant to this section shall remain in effect for as long as current support is due or until all arrearages for support are paid, whichever is later. Payment of any arrearages shall not prevent the income assignment from taking effect.

7. The payor, if the employer of the obligor, shall verify employment of the obligor with the payor and the last address of the obligor known to the payor upon the request of the Department.

8. The payor may not discipline, suspend, or discharge an obligor because of an income assignment executed pursuant to this section. Any payor who violates this section shall be liable to such obligor for all wages and employment benefits lost by the obligor from the period of unlawful discipline, suspension, or discharge to the period of reinstatement.

F. Any person obligated to pay support, who has left or is beyond the jurisdiction of the court, may be prosecuted under any other proceedings available pursuant to the laws of this state for the enforcement of the duty of support and maintenance.

G. The income assignment proceedings specified in this section shall be available to other states for the enforcement of child support and maintenance or to enforce out-of-state orders. Venue for such proceedings is, at the option of the obligee:

1. In the county in Oklahoma in which the support order was entered; or

2. In the county in Oklahoma in which the obligee resides; or

3. In the county in Oklahoma in which the obligor resides or receives income.

H. Any payment made pursuant to the provisions of this section by the payor shall be made payable through the Department, and in such manner as provided by the administrative order.

I. 1. In the event the obligor is in arrears, any payment which exceeds the amount due for the period in which the payment is made shall be applied to past due and unpaid amounts owed in the order in which the payments came due.

2. If at anytime an obligor is entitled to receive a refund, the Department shall send the excess amount to the obligor within ten (10) working days after such excess is determined.

J. The obligated party may execute a voluntary income assignment at any time. The voluntary income assignment shall be submitted to the Department and shall take effect after service on the payor as required by subsection E of this section.

K. The Department of Human Services shall promulgate rules and regulations to effectuate the provisions of this section.

~~L. The Department is authorized to prorate the payment of the support between two or more income assignments levied concurrently.~~

~~M.~~ The Department shall distribute the monies due a person entitled to support who is not receiving aid to families with dependent children within ten (10) working days after receipt of such monies.

SECTION 20. 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,~~ ;

~~(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, or

b. the father has signed an acknowledgment of paternity.

~~(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 21. 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 make available to the Child Support Enforcement Division of the Department of Human Services the birth certificates, the mother's and father's social security numbers and paternity affidavits.

SECTION 22. 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 State Department of Public Health, 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 State Department of Public Health, 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 23. 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 24. Section 13 of this act shall not be codified in the Oklahoma Statutes.

SECTION 25. This act shall become effective September 1, 1993.

44-1-5092

KSM