

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2657

By: Vaughn (Ray)

AS INTRODUCED

An Act relating to child support; amending 56 O.S. 1991, Sections 237, as amended by Section 2, Chapter 153, O.S.L. 1992, 240, as amended by Section 5, Chapter 307, O.S.L. 1993, 238.1, 238.3a, 238.4, 238.5A, 238.6A, 240.1, 240.2, 240.3 and 240.4 (56 O.S. Supp. 1993, Sections 237 and 240), which relate to administration of child support by the Department of Human Services; modifying procedures; requiring medical insurance in certain cases; requiring certain information; specifying certain other requirements by certain persons; adding to and modifying definitions; clarifying language; requiring certain notice; modifying notice of debt; providing for contents; providing for information and requirements; authorizing liens in certain instances; modifying procedures; providing for priority; modifying requirements of mailing; modifying hearing requirements; modifying content of order; modifying powers and duties; providing for appeals; specifying procedures for appeals; requiring certain filings; providing for certain filings; establishing certain priorities; specifying place of filings; providing for payment; providing for dormancy; requiring certain reviews;

providing for notice of reviews; providing for modifications; requiring certain compliance; providing for effective date; providing for enforcement; authorizing appeals; authorizing remand; providing procedures and conditions; providing for initiation of certain proceedings; specifying jurisdictions; providing for content of certain orders and judgments; authorizing fees; authorizing income assignments; providing and modifying procedures; clarifying language; removing obsolete language; requiring certain advise to certain persons; providing for notice and hearing; providing contents; providing for service; providing for granting of judgments; providing for liens; increasing certain costs and authorized charges; modifying effectiveness of income assignment; providing for termination of assignments; specifying certain presumptions; authorizing voluntary acknowledgements; prohibiting dormancy in certain cases; providing for filings; providing for admissibility of certain reports; specifying age limit for entitlement to support; amending 43 O.S. 1991, Sections 115, 116, 117, 118, as last amended by Section 2, Chapter 307, O.S.L. 1993, 118.1, as amended by Section 1, Chapter 153, O.S.L. 1992 (43 O.S. Supp. 1993, Sections 118 and 118.1), which relate to court orders for support of minor children; requiring certain orders to contain child support assignments; providing exceptions; authorizing certain administrative orders; providing for determination of child support; providing for certain calculations and

determinations; providing for specific findings;
providing for modifications; providing for changes
of circumstances; providing for codification;
providing for recodification; and providing an
effective date.

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

SECTION 1. AMENDATORY 56 O.S. 1991, Section 237, as amended by Section 2, Chapter 153, O.S.L. 1992 (56 O.S. Supp. 1993, 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.

D. The Department ~~may~~, when support rights have been assigned to it or upon proper application by an obligor or by an individual not receiving Aid to Families with Dependent Children, shall in all cases petition the district court or the Office of Administrative Hearings: Child Support, an administrative court of the Department of Human Services, for an order requiring obligor to provide medical insurance for the dependent children whenever it is available through employment or other group plan regardless of whether obligor has insurance coverage available at that time and/or there has been

a change of circumstances, establish medical support and child support, enforce orders for medical support or other support, require that the obligor keep the Department and/or enforcement office informed of the name and address of his/her current employer and access to health insurance and other insurance policy information, and make collection and distribution of child support monies, arrearages and support debt payments, assist in the judicial determination of the paternity of a child born out of wedlock by a district court or administrative court and in location of absent parents, in cooperation with federal agencies, other agencies of this state and of other states, territories, and foreign nations requesting assistance with the enforcement of support orders entered in the United States and elsewhere. The Department may petition the district or administrative court to modify any order for support regardless of whether there has been a change of circumstances. 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 2. AMENDATORY 56 O.S. 1991, Section 240, as amended by Section 5, Chapter 307, O.S.L. 1993 (56 O.S. Supp. 1993, Section 240), is amended to read as follows:

Section 240. For the purposes of ~~this section and~~ Sections ~~240.1 and 240.4~~ 238 through 240.13 of this title:

1. "Department of Human Services", hereinafter referred to as the "Department", is the state agency designated to administer the child support enforcement program for the State of Oklahoma;

2. "Enforcement office" means a district child support enforcement office which provides enforcement services to individuals receiving Aid to Families with Dependent Children, hereinafter referred to as "AFDC", and to individuals not receiving AFDC who have made proper application for enforcement services to the Department;

3. "Office of Administrative Hearings: Child Support", hereinafter referred to as administrative court, conducts child support enforcement administrative hearings for the Legal Division, Department of Human Services, State of Oklahoma. All hearings are conducted by administrative law judges assigned to the Office of Administrative Hearings: Child Support;

4. "Support debt" means a debt owed to the State of Oklahoma by the natural or adoptive parent(s) who are responsible for support of a child or children receiving public assistance money from the Department. The amount of the debt shall be determined in accordance with the provisions of Section 238 of this title;

5. "Arrearage" means the total amount of unpaid support obligations;

~~2.~~ 6. "Delinquency" means any payment under an order for support which becomes due and remains unpaid;

~~3.~~ 7. "Income" or "earnings" means income from any source and includes but is not limited to income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, rent, interest income, trust income, annuities, compensation as an independent contractor, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts and prizes, any form of periodic payment to an individual regardless of source ~~including but not limited to wages, salary, commission, compensation as an independent contractor, workers' compensation, disability, annuity and retirement benefits,~~ and any other payments made by any person, private entity, federal or state government, any unit of local government, school district, or any entity created by law. Income 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 AFDC, Supplemental Security Income (SSI), Food Stamps, General Assistance and State Supplemental Payments for Aged, Blind and the Disabled;

~~4.~~ 8. "Disposable income" means income or earnings less any amounts required by law to be withheld, including but not limited to federal, state, and local taxes, Social Security, and public assistance payments;

9. "Gross income" for purposes of computing gross income of the parents shall include for each parent all actual monthly income described in paragraph 7 of this section, 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, gross monthly income for either parent may be imputed in an amount that 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.~~ 10. "Obligor" means the person who is required to make payments under an order for support and/or the natural or adoptive parents who are responsible for the support of such child or children;

~~6.~~ 11. "Person entitled" means the person or entity to whom a duty of support is owed;

~~7.~~ 12. "Payor" means any person or entity paying monies, income or earnings to an obligor. In the case of a self-employed person, the "payor" and "obligor" may be the same person;

~~8.~~ 13. "Support order" means an order for the payment of support issued by a district court or the administrative court of the Department of Human Services; and

~~9.~~ 14. "Income assignment" is a provision of a support order which directs the obligor to assign a portion of the monies, income, or periodic earnings due and owing to the obligor to the person entitled to the support or to another person or entity designated by the support order or assignment for payment of support ~~or arrearages or both. An income assignment may be initiated when the obligor has failed to make child support payments required by a child support order as provided in Section 1171.3 of Title 12 of the Oklahoma Statutes.~~ the support debt, and arrearages. In all child support orders wherein child support is being paid to a recipient of AFDC, the wages of any parent required by court or administrative order to pay support shall be subject to immediate income assignments regardless of whether support payments by such parent are in arrears. In all child support orders in which child support services are being provided under the state child support plan as provided under Section 237 of Title 56 of the Oklahoma Statutes, the court or administrative law judge shall order the wages of any

person required by the court or administrative order to pay support be subject to immediate income assignment, unless:

- a. one of the parties demonstrates and the court or administrative court finds good cause not to require immediate income withholding, or
- b. a written agreement is reached between the parties which provides for an alternative arrangement.

The assignment shall be in an amount which is sufficient to meet the ~~periodic child support arrearages~~ monthly child support payments, payments on support debt and arrearages or other maintenance payments ~~or both~~ imposed by the court ~~order~~ or administrative order. The income assignment shall be made a part of ~~the~~ a support order or any order granting a judgment for a support debt or arrearages, or a review or modification of a support order pursuant to Section 118.1 of Title 43 of the Oklahoma Statutes;

15. "Voluntary acknowledgment" means a written acknowledgment executed by the obligor wherein the obligor acknowledges support liability, a support debt, or arrearage amount, and agrees to a judgment and an immediate income assignment to pay monthly support and payments on the support debt or arrearage judgments; and

16. "Notice" means a written announcement served upon an obligor, a custodial person or any person or entity which might be affected by the proceeding which makes known to such parties the intention of the state to ask the district or administrative court for a particular, specified order on a stated date and place which might affect the interests of the parties.

SECTION 3. AMENDATORY 56 O.S. 1991, Section 238.1, is amended to read as follows:

Section 238.1 A. For the purposes of establishing the amount of the debt provided for by the provisions of Section 238 of this title, which has accrued prior to or after the establishment of an obligation for support, or to establish an obligation for support in

the absence of a court order of support, the enforcement office or Department ~~may~~ shall issue a notice of a support debt accrued or accruing based upon payment of public assistance to or for the benefit of any dependent child or if no public assistance is paid, the amount of monthly child support required by the custodian of the minor child as determined by the Department. Said notice of debt shall be served upon the ~~debtor~~ obligor in the same manner prescribed for the service of summons in a civil action. The notice of debt shall include:

1. A statement of the support debt accrued, if any, based on payment of public assistance to or for the benefit of any dependent child and support debt accruing, if any, based on the payment of public assistance for the benefit of said child; and

2. A statement of the amount of monthly public assistance payment or if no payment is made, the amount of monthly child support required by the custodian of the minor child as determined by the Department; and

3. A statement that the ~~debtor will~~ obligor shall be required to maintain health insurance for the child whenever the ~~debtor~~ obligor has such insurance available through his employment or other group insurance plan; and

4. A statement that the obligor shall be required to keep the state informed of the name and address of obligor's current employer and obligor's access to health insurance and other insurance policy information; and

5. A statement containing the name of the child and the name of the custodian of the child; and

~~5.~~ 6. A statement that the ~~debtor~~ obligor may object to all or any part of the notice of support debt and, within twenty (20) days of the date of service, may request a hearing which will be held at a given location on a date specified in the notice to show cause why said ~~debtor~~ obligor should not be determined liable for the support

requested in the notice and for any or all of the debt accrued or accruing, and the amount to be paid thereon; and

~~6.~~ 7. A statement that if no hearing is requested on or before twenty (20) days from the date of the service or if the obligor requests a hearing but fails to appear at the hearing, the support debt ~~shall~~ may be made an administrative order subject to collection action and ~~may~~ shall 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, and any county where the obligor owns any real property and that the judgment shall become a lien upon such real property from the time it is filed of record, with priority established and remaining undisturbed until the minor child or children reach the age of legal majority. The administrative support debt order shall be enforced in the same manner as an order of the district court. The judgment obtained by the Department or enforcement office shall not become dormant due to the failure to timely execute.

B. The enforcement office or Department may accept voluntary acknowledgments of support liability and stipulated support amounts. The ~~debtor~~ obligor shall be informed, in the notice specified by this section, that he may make such voluntary acknowledgments.

SECTION 4. AMENDATORY 56 O.S. 1991, Section 238.3a, is amended to read as follows:

Section 238.3a If the ~~debtor~~ obligor fails to request a hearing on or before twenty (20) days after proper service of the notice of support debt or fails to appear at the hearing on the date and at the hearing place given in the notice, an administrative order will be entered. Such order shall include findings of facts and conclusions of law and shall be consistent with the notice of support debt. The order shall be subject to collection action, and ~~may~~ shall be ~~docketed with~~ filed of record in the office of the

county clerk and entered on the judgment docket in 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,~~ shall be filed of record in the office of the county clerk in the county of residence of the obligor and any county where the obligor owns any real property and shall become a lien upon such real property from the time it is filed of record. Priority shall be established by the filing and shall remain undisturbed whether or not execution is issued until the minor child or children identified in the order reach the age of majority as defined in subsection D of Section 112 of Title 43 of the Oklahoma Statutes. The order shall be enforced in the same manner as an order of the district court. A copy of such order shall be mailed to the ~~debtor~~ obligor by the ~~Department~~ enforcement office. The judgment obtained by the Department or enforcement office shall not become dormant due to the failure to timely execute.

SECTION 5. AMENDATORY 56 O.S. 1991, Section 238.4, is amended to read as follows:

Section 238.4 A. If requested, a hearing shall be held at the time and place given on the notice of support debt served upon the obligor and scheduled at the earliest available time with a duly qualified ~~hearing examiner~~ administrative law judge appointed for that purpose by the Department. ~~The notice of hearing shall be served upon the debtor or upon his attorney of record by delivering a copy to said debtor or his attorney, or by mailing such notice, by certified mail, return receipt requested, at his last-known address.~~ The hearing shall be held in the county of residence of the custodial parent or guardian of the child or if the custodian resides out of state, the hearing shall be held in the county of residence of the obligor. The hearing shall be conducted according to rules promulgated by the Department. The rules shall provide to both parties the right to confront and cross-examine witnesses, to

present witnesses, to be represented by an attorney or other person, and to be notified of these rights in writing. After the evidence has been presented at a hearing, the ~~hearing examiner~~ administrative law judge shall enter an order which shall be in writing and contain findings and conclusions as to each contested issue of fact and law, as well as the order based on said findings and conclusions. Each order shall include provisions requiring obligor to inform the state of the name and address of the current employer, access to health insurance and other insurance policy information. The order shall be prepared in writing and copies submitted to the ~~Department~~ enforcement office and to the ~~debtor~~ obligor by hand delivery or by certified mail, return receipt requested, within twenty (20) days after the conclusion of the hearing.

B. If, during the hearing, the ~~examiner~~ administrative law judge finds that the issues presented will require further disposition either administratively or through the district court, the ~~examiner~~ administrative law judge may enter a temporary order for child support, pending resolution of those issues during a subsequent administrative or court hearing. Such temporary order shall be docketed and enforced as a final order until superseded by a final administrative order or district court order.

C. 1. If the ~~debtor~~ obligor feels aggrieved by the findings and judgment of the ~~hearing examiner~~ administrative law judge, within ten (10) days of receipt of ~~notice of the rendition of a final judgment~~ the final order by said ~~examiner~~ administrative law judge, said ~~debtor~~ obligor shall give written notice to the ~~Department~~ enforcement office of his intention to appeal said decision to the district court of the county in which said child resides, or if the custodian resides out of state, with the district court in the county of resident of the obligor. The enforcement office shall notify the Office of Administrative Hearings: Child Support (OAH) of the pending appeal within three (3) days of receipt

of written notice of intent to appeal from the judgment. If the enforcement office is the party aggrieved by the judgment, the enforcement office shall deliver notice of intent to appeal to OAH within ten (10) days of receipt of the final order. Said appeal must be filed in the district court within fifteen (15) days after the date of said notice and reviewed pursuant to the provisions of Sections 318 through 323 of Title 75 of the Oklahoma Statutes.

Any decision by the ~~hearing examiner~~ administrative law judge as to the amount of support owed or to be owed in the future by the ~~debtor obligor~~ will be superseded by the decision of the district court hearing the appeal.

2. The certified transcript, exhibits, pleadings and any written orders shall constitute the record of appeal to the district court. The Office of Administrative Hearings: Child Support shall prepare or direct the preparation of the official transcript by a licensed court reporter. The party seeking a copy of the transcript of the hearing shall prepay all costs of transcription and pay a reasonable deposit or adequate indemnity prior to preparation of the transcript; provided however, if the party is financially unable to pay the transcription costs and provides the Office with an in forma pauperis affidavit which verifies the inability to pay, a transcript will be provided by the Office of Administrative Hearings: Child Support. The transcript shall not be provided prior to full payment of all transcription costs or an order finding the Department must bear the cost of transcription.

D. If an appeal is not made by the ~~debtor obligor~~ or enforcement office, the order of the ~~hearing examiner~~ administrative law judge shall be final, subject to collection action, and ~~may~~ shall be docketed with filed of record in the office of the county clerk and entered on the judgment docket in the district court in the county of residence of the custodian of the child or if the custodian resides out of state, shall be filed of record in the

office of the county clerk with the district court of the county of residence of the obligor and any county where the obligor owns any real property and shall become a lien upon such real property from the time it is filed of record. Priority shall be established by the filing and shall remain undisturbed whether or not execution is issued until the minor child or children identified in the order reach the age of majority as defined in subsection D of Section 112 of Title 43 of the Oklahoma Statutes. The order shall be enforced in the same manner as an order of the district court. The judgment obtained by the Department or enforcement office shall not become dormant due to the failure to timely execute.

E. If the ~~debtor~~ obligor requests a hearing pursuant to this section but fails to appear for the hearing after proper service, an administrative order will be entered. Such order shall include findings of facts and conclusions of law and shall be subject to collection action, and ~~may~~ shall be ~~docketed with~~ filed of record in the office of the county clerk and entered on the judgment docket in 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,~~ shall be filed of record in the office of the county clerk in the county of the residence of the obligor and any county where the obligor owns any real property and shall become a lien upon such real property from the time it is filed of record. Priority shall be established by the filing and shall remain undisturbed whether or not execution is issued until the minor child or children identified in the order reach the age of majority as defined in subsection D of Section 112 of Title 43 of the Oklahoma Statutes. The order shall be enforced in the same manner as an order of the district court. The judgment obtained by the Department or enforcement office shall not become dormant due to the failure to timely execute.

F. Any order for periodic support payments made pursuant to the provisions of this title shall be payable to the Department through the Department or enforcement office for as long as the Department is providing support enforcement. Thereafter, if AFDC is not being paid, the custodian or the guardian no longer requests support enforcement and/or the obligor has not requested services, payments shall be made to the custodian or guardian of the child until further order of the district or administrative court, or until the ~~debtor~~ obligor is notified by the Department that said child has been recertified for receipt of public assistance, or until said child reaches the age of majority.

SECTION 6. AMENDATORY 56 O.S. 1991, Section 238.5A, is amended to read as follows:

Section 238.5A A. The amount of child support and other support shall be ordered and reviewed by the Office of Administrative Hearings: Child Support in accordance with the child support guidelines provided in Section ~~1277.7 of Title 12~~ 118 of Title 43 of the Oklahoma Statutes. A review of the support order may be initiated by the Department or enforcement office if it is determined that the individual award is not in compliance with guidelines or upon request of the obligor or the person entitled to support. The Department or enforcement office shall serve notice of such review upon each parent subject to a support order. The administrative court may review and modify all district court or administrative orders in which child support services are provided under the state child support plan to determine whether the amount of child support ordered is in accordance with the child support guidelines.

B. If an individual support award is not in accordance with such guideline, the administrative court may modify the support award so as to bring it into compliance with the guidelines. The administrative court shall enter an order setting forth the

modification or denial of modification and attach a child support guideline schedule to the order.

C. The modification of the support order by the administrative court shall not be effective until thirty (30) days after the hearing. Thereafter, the order shall be docketed with the district court in the county of residence of the custodian of the child, in the county of residence of the obligor and shall be enforced by the district court in the same manner as an order of the district court, including indirect civil contempt proceedings.

D. If the obligor feels aggrieved by the modification order, within forty-five (45) days of the hearing, said obligor must perfect an appeal in accordance with Section 240.3 of this title.

SECTION 7. AMENDATORY 56 O.S. 1991, Section 238.6A, is amended to read as follows:

Section 238.6A A. In any case in which the same issues of fact involving minor children are pending before the district court and before the ~~Administrative Law Unit~~ Office of Administrative Hearings: Child Support of the Department of Human Services, those issues shall be decided and relief granted by the district court and not by the ~~Administrative Law Unit~~ Office of Administrative Hearings: Child Support, unless said issues are remanded for determination to the ~~Administrative Law Unit~~ Office of Administrative Hearings: Child Support by the district court.

B. In any case in which different issues of fact involving minor children are pending before the district court and before the ~~Administrative Law Unit~~ Office of Administrative Hearings: Child Support of the Department of Human Services, all issues may be decided and all relief granted by the district court and not by the ~~Administrative Law Unit~~ Office of Administrative Hearings: Child Support, if the district court finds that it is in the interests of justice and judicial economy.

C. In any case brought in district court in which child support is being paid to a recipient of AFDC or child support services are being provided under the state child support plan as provided under Section 237 of this title, the district court may remand the case to the Office of Administrative Hearings: Child Support for failure of the party to exhaust administrative remedies prior to bringing the action in district court. Upon receipt of the remand, the Office of Administrative Hearings: Child Support shall decide the issues remanded.

SECTION 8. AMENDATORY 56 O.S. 1991, Section 240.1, is amended to read as follows:

Section 240.1 A. The enforcement office or the Department, in cases where AFDC is being paid to dependent children and upon application, by a person entitled to receive child support who is not receiving Aid to Families with Dependent Children, may initiate proceedings to obtain an arrearage judgment and receive judgment payments; to effectuate an income assignment and receive payments pursuant to Section 24 of this act; to receive current support and judgment payments; to review and modify support orders pursuant to child support guidelines in Section 118 of Title 43 of the Oklahoma Statutes; and to initiate any other legal proceeding in the district court or administrative court to implement the collection of support from the obligor. A reasonable fee and costs may be assessed for the services pursuant to the rules and regulations promulgated by the Department. Such fee, not to exceed Twenty-five Dollars (\$25.00), shall be paid by the applicant and such other costs shall be in addition to the amount withheld pursuant to the income assignment. In district court or administrative court, in any hearing on the notice of delinquency or other proceeding, the district or administrative court may include in any judgment against the obligor the amount of the fee paid by the person entitled to support payments.

B. The enforcement office and the Department ~~is~~ are authorized to initiate proceedings and receive payments pursuant to Section ~~24~~ 240.2 of this ~~act~~ title to effectuate an income assignment for spousal support or the support of a minor child or both for an applicant or any person who is the recipient of Aid to Families with Dependent Children.

C. The enforcement office and the Department of Human Services ~~is~~ are authorized to initiate proceedings and receive payments pursuant to Section ~~24~~ 240.2 of this ~~act~~ title to effectuate an income assignment for any debt due and owing to this state by the natural or adoptive parents or parent who are responsible for the support of a minor child pursuant to Section 238 of ~~Title 56 of the Oklahoma Statutes~~ this title or found to be responsible for the support of a minor child pursuant to Sections 238.1 through 238.6 of ~~Title 56 of the Oklahoma Statutes~~ this title.

D. The enforcement office and Department of Human Services, upon application by an obligor who requests support enforcement services to permit the payment of the support obligation and any payments on a support debt judgment or arrearage judgment through the Department, are authorized to initiate any proceedings necessary to provide support enforcement services to the obligor and to receive payments of the support obligation and on any support debt or arrearage judgment. A reasonable fee and costs may be assessed for the services pursuant to the rules promulgated by the Department. Such fee, not to exceed Twenty-five Dollars (\$25.00), shall be paid by the applicant.

SECTION 9. 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~~ or the enforcement office:

1. ~~That~~ An affidavit specifying the obligor has been ordered to pay current support and, if 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, the amount of the arrearage; 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 that the indebtedness or earnings specified in the affidavit are, to the best of the knowledge and belief of the affiant, not exempt by law;

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

3. ~~The amount of the support order~~ A report of payments made by the obligor and the total 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~~ during a stated period of time.

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, to initiate proceedings to receive payments and to effectuate an income assignment for spousal support, or the support of a minor child, or both, or any person who is the recipient of Aid to Families with Dependent Children; or to initiate proceedings and receive payments to effectuate an income assignment for any debt due and owing to this state by the natural or adoptive parents or parent who are responsible for the support of a minor child pursuant to Section 238 of this title or found to be responsible for the support of a minor child pursuant to Sections 238.1 through 238.6 of this title, the enforcement office or the

Department shall advise the obligor of the intention to effectuate income assignment by a notice of delinquency or support debt. The enforcement office or Department ~~may~~ shall 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 by serving the obligor in the same manner prescribed for the service of summons in a civil action. In any case where application for support services is made, the notice ~~of delinquency~~ shall be postmarked no later than ten (10) days after the date on which the application was submitted. ~~The~~ A 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~~ service of the delinquency notice, ~~said date of mailing to be specified in the notice,~~ the obligor requests a hearing which will be held at a given location and a date specified in the notice,
- c. that at the hearing, ~~if requested,~~ the obligor may contest ~~the~~ any 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, and
- e. that the obligor shall be required to keep the state informed of the name and address of the obligor's current employer and the obligor's access to health insurance and other insurance policy information.

2. a. An obligor may request a hearing pursuant to this section by delivering written notice, to the enforcement office on a form provided to him with the notice of delinquency which states the location of the hearing and the date on which such hearing will be scheduled if requested by the obligor to the enforcement office with his address thereon, ~~to the Department of Human Services~~ on or before the 15th day from the date of ~~mailing~~ service of the delinquency notice. On receipt of the request for hearing, the ~~Department~~ enforcement office 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~~ on the administrative court hearing docket. The ~~Department~~ administrative court 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~~ administrative court shall enter a judgment for the arrearage, if any, determine the amount of payments, if any, which should be made on the judgment and order that the assignment of earnings take effect against the nonexempt earnings of the obligor to pay the judgment and the monthly support payments.
- b. The ~~Department~~ administrative court may order an obligor to pay all costs involved in an income assignment proceeding under this subsection or to pay interest at the rate of ten percent (10%) per year from the date court-ordered child support payments

became delinquent, to be collected in the same manner as the payments upon which the interest accrued.

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 or the enforcement office shall send a notice of the income assignment to the payor to effectuate the assignment pursuant to subsection E of this section and shall file the original of such notice with the Office of Administrative Hearings: Child Support, Department of Human Services.

C. If within fifteen (15) days of date of ~~mailing~~ service of the delinquency notice, the obligor fails to request a hearing, pursuant to subsection B of this section, ~~the Department~~ or after having requested a hearing fails to appear at the hearing, the administrative court shall enter an order granting judgment for arrearage, if any, establishing a judgment payment plan and approving the income assignment and the administrative order shall thereafter be subject to collection action and may shall be docketed with the district court and thereafter enforced in the same manner as an order of the district court and shall be filed of record in the office of the county clerk in the county where the obligor resides and in any county where the obligor owns any real property. The judgment shall become a lien upon any real property of the obligor from the time it is filed of record. Priority shall be established by the filing and shall remain undisturbed whether or not execution is issued until the minor child or children identified in the notice or order reach the age of majority as defined in subsection D of Section 112 of Title 43 of the Oklahoma Statutes. The judgment obtained by the Department or enforcement office shall not become dormant due to the failure to timely execute.

D. ~~The~~ After the administrative court has ordered an income assignment, the enforcement office or 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 enforcement office~~ 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~~ receives notice thereof and the amount withheld shall be sent to the ~~Department enforcement office~~ within ten (10) days of the date upon which the obligor is paid. The payor shall attach to each payment a statement reporting the date on which the obligor's support obligation was withheld;
- b. the amount to be withheld from the obligor's earnings each pay period for support ~~and for~~ payment on a support debt judgment, or payment on the arrearage judgment. 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~~ administrative court;

- 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;
- 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 or support debt judgment;
- f. that if the payor is the obligor's employer, the payor shall notify the ~~Department~~ enforcement office when the obligor terminates employment or if the obligor's employment is terminated. The payor shall provide to the ~~Department~~ enforcement office, the obligor's last-known address and the name of the obligor's new employer, if known;
- 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~~ enforcement office within ten (10) days of receipt of said notice. Failure to notify the ~~Department~~ enforcement office 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 each failure to make the

required deductions in a district court action brought by either the obligor or the enforcement office.

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 but not to exceed Ten Dollars (\$10.00) per month as reimbursement for costs incurred in the income assignment.

5. The income assignment shall remain effective ~~upon notice to the new payor~~ regardless of any change of a payor.

6. The income assignment issued pursuant to this section shall remain in effect for as long as current support or a support debt is due or until all arrearages or a support debt for support are paid, whichever is later. Payment of any arrearages or support debt 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 or the enforcement office.

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. It shall be presumed that an obligor was discharged in violation of this statute if the

obligor is discharged within six (6) months of the receipt of the notice of income assignment by the payor.

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~~ enforcement office, 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 any time 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 by executing a voluntary acknowledgment at any time. The voluntary ~~income assignment~~ acknowledgment shall be submitted to the ~~Department~~ enforcement office 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. L. 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 10. AMENDATORY 56 O.S. 1991, Section 240.3, is amended to read as follows:

Section 240.3 A. 1. Final orders of the ~~Department~~ Office of Administrative Hearings: Child Support may be appealed to the district court pursuant to this section and Sections 318 through 323 of Title 75 of the Oklahoma Statutes by any party directly affected and showing aggrievement by the order.

2. An appeal shall be commenced by filing with the clerk of the district court, within fifteen (15) days from the date of the order or decision, a petition in error with a copy of the order or decision appealed from. The time limit prescribed in this paragraph for filing the petition in error may not be extended. The manner of perfection of the record of the proceedings to be reviewed and the time for its completion shall be in accordance with rules prescribed by the district court.

3. The appeal shall not stay the execution of any order or decision of the ~~Department~~ Office of Administrative Hearings: Child Support unless the district court, for cause shown, shall order that said decision or order be stayed pending such appeal pursuant to Section 319 of Title 75 of the Oklahoma Statutes.

4. The court may affirm the decision or remand the case for further proceedings. Additionally, the court may reverse or modify the decision if substantial rights of the appellant have been

prejudiced because the findings, inferences, or conclusions are not supported by substantial evidence in the record.

B. If an appeal pursuant to subsection A of this section is not made by the person to whom such an order is directed within fifteen (15) days after ~~notice has been sent to the parties~~ the judgment is rendered, the order of the ~~Department~~ administrative court shall become final and binding on all parties and may be docketed with the district court in the county of the residence of the obligor, ~~or otherwise in the district court of Oklahoma County~~ the county of the residence of the person entitled to support, in the county where a support order was entered or in any county where the obligor owns real property and thereafter enforced in the same manner as an order of the district court. The judgment obtained by the Department or enforcement office shall not become dormant due to the failure to timely execute.

SECTION 11. AMENDATORY 56 O.S. 1991, Section 240.4, is amended to read as follows:

Section 240.4 A report of payments made by the obligor or payor or of AFDC payments made to a person entitled to support which is prepared by the Department, the enforcement office, or by public agencies in other states with a certification of authenticity executed by the Department ~~of Human Services or the court clerk~~, the enforcement office, or a public agency in another state is admissible into evidence in court or in an administrative proceeding as self-authenticated.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 112.1 of Title 43, unless there is created a duplication in numbering, reads as follows:

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. No hearing to extend support beyond the eighteenth birthday shall be required if the child is regularly and continuously attending high school after the eighteenth birthday.

SECTION 13. AMENDATORY 43 O.S. 1991, Section 115, is amended to read as follows:

Section 115. A. ~~On and after October 1, 1985, a~~ A court order or an administrative order issued by the Department of Human Services providing for the support of a minor child or a modification of such order shall contain an income assignment provision. ~~Such income assignment provision may be initiated when 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 and by making application to the court pursuant to Sections 12 and 13 of this act or to the Department of Human Services pursuant to Sections 22 through 24 of this act in all orders wherein child support is being paid to a recipient of Aid to Families with Dependent Children, regardless of whether support payments by such parent are in arrears and in an order in which child support services are being provided under the state child support plan, regardless of whether support payments by such parent are in arrears, unless:~~

1. One of the parties demonstrates and the district court or administrative court finds there is good cause not to require immediate income withholding; or

2. A written agreement is reached between the parties which provides for an alternative arrangement.

B. In all child support cases arising out of an action for divorce, paternity or other proceeding in which services are not being provided under the state child support plan, the district court shall include an income assignment provision in its order; provided however, that such income assignment provision may be initiated when the obligor has failed to make child support payments

required by a support order in an amount equal to the child support payable for one (1) month and by making application to the court pursuant to Sections 1171.3 and 1171.4 of Title 12 of the Oklahoma Statutes or to the Department of Human Services pursuant to Sections 240 through 240.2 of Title 56 of the Oklahoma Statutes. On or after January 1, 1995, in all child support cases arising out of an action for divorce, paternity or other proceeding in which services are not being provided under the state child support plan, the district court shall order the wage of the obligor subject to immediate income assignment, regardless of whether support payments by such parent are in arrears, unless:

1. One of the parties demonstrates and the district court or administrative court finds there is good cause not to require immediate income withholding; or

2. A written agreement is reached between the parties which provides for an alternative arrangement.

~~B. Any person entitled to a payment of child support or maintenance pursuant to a support order issued prior to October 1, 1985, which does not contain an income assignment provision may initiate an income assignment when 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 by making application to the court pursuant to Sections 12 and 13 of this act or to the Department of Human Services pursuant to Sections 22 through 24 of this act.~~

C. The ~~obligated party~~ obligor may execute a voluntary income assignment at any time. The voluntary assignment shall be filed with the district court or administrative court and shall take effect after service on the payor, as required by ~~subsection E of Section 12-1171.3 of this act~~ Title 12 of the Oklahoma Statutes.

SECTION 14. AMENDATORY 43 O.S. 1991, Section 116, is amended to read as follows:

Section 116. The court or administrative court may 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 15. 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 district court or administrative 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 district court shall notify the Department of Human Services prior to the termination, modification, or suspension of the income assignment order.

SECTION 16. AMENDATORY 43 O.S. 1991, Section 118, as last amended by Section 2, Chapter 307, O.S.L. 1993 (43 O.S. Supp. 1993, Section 118), is amended to read as follows:

Section 118. 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 district court or administrative 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~~ The district court shall not take into account any stepchildren of such parent in making the determination but in making such determination, the court may take into account the reasonable support obligations of either parent as to ~~other~~ only natural or legally adopted minor children in the custody of said parent. If the district court or administrative court deviates from the amount of support indicated by these guidelines, it shall make specific findings of fact supporting such action.

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 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 district court or administrative court to be inappropriate for determining gross income for purposes of calculating child support. The district court or administrative 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 district court or administrative 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 district court or administrative 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 district court or administrative 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 district court or administrative 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 district court or administrative 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 district court or administrative 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 district court or administrative 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 district court or administrative 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 district court or administrative court adopts a joint custody plan meeting the requirements of Section 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 district court or administrative 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 district court or administrative 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 minor children of the parties may be taken into account in determining child support;

18. The district court or administrative 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 support amount is not in accordance with the child support guidelines. Unless the parties agree to the contrary, a completed child support computation form provided for in Section 120 of this title shall be required to be filed with the

child support order. ~~If the court finds there is a basis for modification, the~~ The child support guidelines provided in this act shall be used in computing child support, subject to the ~~court's~~ discretion of the district court or administrative court 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 is not necessary for any party to demonstrate a material change in circumstance as a condition precedent to modification;

20. The child support computation worksheet provided in Section 120 of this title shall be signed by the judge or administrative law judge;

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

22. The district court or administrative court shall require and enforce a complete disclosure of assets by both parents.

SECTION 17. AMENDATORY 43 O.S. 1991, Section 118.1, as amended by Section 1, Chapter 153, O.S.L. 1992 (43 O.S. Supp. 1993, Section 118.1), is amended to read as follows:

Section 118.1 A. Effective October 13, 1990, the Department shall commence a review of all orders in which child support services are being provided under the state child support plan as provided under Section 237 of Title 56 of the Oklahoma Statutes, to determine whether the amount of child support ordered is in accordance with the child support guidelines. If the Department determines that individual awards are not in accordance with such guidelines, or upon request of the payor or payee, the case shall be

presented to the district court or administrative ~~hearing officer~~
court for appropriate action. The district court or administrative
court may modify any support orders which are not in accordance with
the child support guidelines and need not find a material change in
circumstances prior to modification. The district court or
administrative ~~hearing officer~~ court shall review the award to
determine its compliance with child support guidelines every three
(3) years unless the payor or payee requests review prior to that
time. Prior to such review, all parties shall receive notice of the
review as provided by law.

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

SECTION 18. RECODIFICATION 56 O.S. 1991, Section 240, as
last amended by Section 2 of this act, shall be recodified as
Section 237.7 of Title 56 of the Oklahoma Statutes, unless there is
created a duplication in numbering.

SECTION 19. This act shall become effective September 1, 1994.

44-2-8135

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