

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2013

By: Blackburn, Roach,
Steidley, Peltier, Seikel,
Pettigrew and Settle

COMMITTEE SUBSTITUTE

(child support - amending 56 O.S., Section 237.7 -
child support program - amending 56 O.S., Section 240.11
- codification - effective date)

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 239.1 of Title 56, unless there
is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Board" means any bureau, board, agency or commission of
this state or of a municipality in this state that issues a license
authorizing a person to engage in a business, occupation, profession
or industry;

2. "Noncompliance with an order of support" means that the
support obligor is at least ninety (90) days in arrears in making
payments in full for current support, in making periodic payments on
a support arrearage pursuant to a written agreement with the

Department of Human Services or in making periodic payments as set forth in an order of support or has failed to obtain or maintain health insurance coverage as required by an order of support;

3. "Order of support" means any order for the support of dependent children issued by the Department or by any court of the state or another state;

4. "Department" means the Department of Human Services;

5. "License" means a license, certification, registration, permit, approval or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business or industry;

6. "Licensee" means any individual holding a license, certification, registration, permit, approval or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business or industry; and

7. "Obligor" means the person who is required to make payments pursuant to an order for support.

B. 1. Upon petition of any person or entity entitled to receive child support payments, if the court finds that the obligor is or may be licensed by a licensing board established pursuant to the laws of this state and the obligor is in noncompliance with an order of support, the court may direct the licensing board or other licensing or certifying agency to conduct a hearing under Section 4 of this act.

2. If the obligor is a licensed attorney, the court may report the matter to the Oklahoma Bar Association for appropriate action in accordance with the rules of professional conduct.

3. The remedy under this section is in addition to any other enforcement remedy available to the court.

SECTION 2. AMENDATORY 56 O.S. 1991, Section 240, as last amended by Section 1, Chapter 365, O.S.L. 1994 and as renumbered by

Section 14, Chapter 365, O.S.L. 1994 (56 O.S. Supp. 1994, Section 237.7), is amended to read as follows:

Section 237.7 For the purposes of Sections 238 through 240.14 of this title:

1. The "Child Support Enforcement Division of the Department of Human Services", hereinafter referred to as the "Division", is the state agency designated to administer the child support enforcement program for the State of Oklahoma and its District Offices, which may be administered through contract or cooperative agreements. The District Offices provide 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 Division;

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

3. "Support debt" means a debt owed to the State of Oklahoma by the natural, legal or adoptive parents who are responsible for support of a child or children receiving public assistance money from the Department or the reasonable expenses of providing for a child or children. The amount of the debt shall be determined in accordance with the provisions of Section 118 of Title 43 of the Oklahoma Statutes;

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

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

6. "Gross income", "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, prizes, any form of periodic payment to an individual regardless of source, 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.

For purposes of computing gross income of the parents, gross income shall include for each parent all actual monthly income described in this paragraph, 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. If a person is permanently physically or mentally incapacitated, the child support obligation shall be computed on the basis of actual monthly gross income;

7. "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;

8. "Obligor" means the person who is required to make payments under an order for support and/or the natural, legal, or adoptive

parents who are responsible for the support of such child or children;

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

10. "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;

11. "Support order" means an order for the payment of support issued by a district or administrative court of this state or by any court or agency of another state;

12. "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, the support debt, and/or arrearages. In all other 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 this title, 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 district 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 monthly child support payments, payments on support debt and arrearages or other maintenance payments imposed by the district or administrative court order. The income assignment shall be made a part of 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;

13. "Voluntary acknowledgment" means a written acknowledgment executed by the obligor wherein the obligor acknowledges paternity, 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~~

14. "Notice" means a written announcement served upon an obligor, a custodial person or any person or entity which might be affected by the noticed proceeding;

15. "Board" means any bureau, board, agency or commission of this state or of a municipality in this state that issues a license authorizing a person to engage in a business, occupation, profession or industry;

16. "Noncompliance with an order of support" means that the obligor is at least ninety (90) days in arrears in making payments in full for current support, in making periodic payments on a support arrearage pursuant to a written agreement with the Department of Human Services or in making periodic payments as set forth in an order of support or has failed to obtain or maintain health insurance coverage as required by a support order;

17. "License" means a license, certification, registration, permit, approval or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business or industry;

18. "Licensee" means any individual holding a license, certification, registration, permit, approval or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business or industry; and

19. "Commission" means the Commission for Human Services.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 239.3 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. 1. If the Department of Human Services finds that the obligor is or may be licensed by a licensing board established pursuant to the laws of this state and the obligor is in noncompliance with an order of support, the Department of Human Services may direct the licensing board to conduct a hearing pursuant to Section 4 of this act.

2. If the obligor is a licensed attorney, the Department of Human Services may report the matter to the Oklahoma Bar Association for appropriate action in accordance with the rules of professional conduct.

3. The remedy under this section is in addition to any other enforcement remedy available to the Department of Human Services.

B. The Child Support Division of the Department of Human Services is authorized to serve notice upon an obligor who is in noncompliance with a support order that informs the obligor of the Division's intention to submit the obligor's name to any appropriate board as a licensee who is in noncompliance with a support order. The notice must inform the obligor that:

1. The obligor may request an administrative hearing to contest the issue of noncompliance;

2. A request for hearing must be made in writing and must be received by the Division within twenty (20) days of service;

3. If the obligor requests a hearing within twenty (20) days of service, the Division shall stay action to certify the obligor to

any board for noncompliance with a support order pending a decision after hearing;

4. If the obligor does not request a hearing within twenty (20) days of service and is in noncompliance with a support order, the Division shall certify to any appropriate board that the obligor is in noncompliance with a support order;

5. If the Division certifies to a board that the obligor is in noncompliance with an order of support, the board shall suspend the obligor's license, or refuse to issue or reissue a license as applicable until the obligor provides the board with a release from the Department that states the obligor is in compliance with the obligor's support order;

6. If the obligor files a motion to modify support with the court or requests the Department to amend a support debt or support obligation established by an administrative decision, the Department shall stay action to certify to any board that the obligor is in noncompliance with an order of support; and

7. The obligor can come into compliance with a support order by:

- a. paying current support,
- b. paying all past due support or, if unable to pay all past due support and a periodic payment for arrearages has not been ordered by the court, by making periodic payments in accordance with a written payment agreement with the Division, and
- c. meeting the obligor's health insurance obligation.

The notice must include the address and telephone number of the Division and a statement of the need to obtain a release from that office as provided in subsection I of this section. The Division shall attach a copy of the obligor's support order to the notice. Service of the notice shall be made by certified mail, return receipt requested, or by personal service. For purposes of this

section, authorized representatives of the Department may serve the notice.

C. An obligor may request an administrative hearing upon service of the notice described in subsection B of this section. The request for hearing shall be made in writing and must be received by the Department within twenty (20) days of service. The issues that may be determined at hearing are limited to whether the obligor is required to pay child support pursuant to a court or administrative order and whether the obligor is in compliance with a support order.

D. The Division shall render an administrative order after hearing without undue delay as to whether the obligor is in noncompliance with the obligor's order of support. The administrative order shall be based on the hearing record and rules promulgated by the Commission. The administrative order shall inform the obligor that the obligor may file a petition for judicial review of the administrative order within thirty (30) days of the date of the administrative order. The Department shall send an attested copy of the administrative order to the obligor by regular mail to the obligor's most recent address of record.

E. If the obligor appeals the Division's administrative order under subsection D of this section, the court may hear and determine any issues raised at the hearing.

F. If an obligor timely requests a hearing to contest the issue of compliance, the Division shall not certify to a board for noncompliance with an order of support until the Department issues an administrative order after hearing that finds the obligor is in noncompliance with an order of support.

G. The Department may certify in writing to any appropriate board that an obligor is in noncompliance with an order of support if:

1. The obligor does not timely request a hearing upon service of a notice issued under subsection B of this section and is in noncompliance with an order of support twenty-one (21) days after service of the notice;

2. The Division issues an administrative order after hearing that finds the obligor is in noncompliance with an order of support and the obligor has not appealed the decision within the thirty-day appeal period provided in subsection D of this section; or

3. The court enters a judgment on a petition for judicial review that finds the obligor is in noncompliance with an order of support.

The Division shall send by regular mail a copy of any certification of noncompliance filed with a board to the obligor at the obligor's most recent address of record.

H. A board shall notify an obligor certified by the Division under subsection G of this section, without undue delay, that the obligor's application for the issuance or renewal of a license may not be granted or that the obligor's license has been revoked because the obligor's name has been certified by the Department as an obligor who is in noncompliance with an order of support.

I. When an obligor who is served notice under subsection B of this section subsequently complies with a support order, the Division shall provide the obligor with written confirmation that the obligor is in compliance with the support order.

J. The Commission shall promulgate rules to implement and enforce the requirements of this section.

K. The Division and the various boards shall enter into such agreements as are necessary to carry out the requirements of this section, but only to the extent the Division determines it is cost-effective.

L. Nothing in this section prohibits an obligor from filing a motion to modify support with the court or from requesting the

Division to amend a support debt or support order rendered by an administrative decision. The Division shall stay action to certify the obligor to any board for noncompliance with an order of support if the obligor files a motion to modify support with the court or the Division and notifies the Division of the motion or requests the Division to amend a support debt or support order established by the Division.

M. On or before April 1, 1996, or as soon as economically feasible and at least annually thereafter, all boards shall provide to the Division specified information, on magnetic tape or other machine-readable form, according to standards established by the Commission, about applicants for licensure and all current licensees of the board. Each board shall provide the specified information for only those current licensees that are residents of this state. The information to be provided must include all of the following information about the licensee or person seeking a license:

1. Name;
2. Address of record;
3. Federal employer identification number or social security number;
4. Type of license;
5. Effective date of license or renewal;
6. Expiration date of license; and
7. Active or inactive status.

N. The Department, upon receipt of the licensee information referred to in subsection M of this section, shall identify and notify each board of the names of any of its licensees or applicants who are obligors subject to this section. The notice must include the social security number and address of the obligor, the name, address and telephone number of the Division and a certification by the Division that it has verified that the licensee or applicant is an obligor subject to this section. When the Division notifies a

board under this subsection, the Division shall provide adequate notice of its action to the obligor. The notice must inform the obligor of the right to request a hearing on the issue of whether the obligor is in compliance with a support order. The board shall not issue or renew a license to a person whose name is on the most recent list from the Department until the board receives a copy of the release specified in subsection I of this section.

O. The board may reissue, renew or otherwise extend the license or certificate of authority in accordance with the board's rules after the board receives a copy of the written confirmation of compliance specified in subsection I of this section.

P. In furtherance of the public policy of increasing collection of child support, the Division shall report the following to the Legislature and the Governor on January 31, 1997:

1. The number of support obligors identified as licensees or applicants subject to this section;

2. The number of obligors known by the Division pursuant to this section who are in noncompliance with an order of support; and

3. The number of actions taken by the Division under this section and the results of those actions.

SECTION 4. AMENDATORY Section 6, Chapter 307, O.S.L. 1993 (56 O.S. Supp. 1994, Section 240.11), is amended to read as follows:

Section 240.11 A. ~~At a hearing to enforce child support if the district court or the Department of Human Services, as applicable, finds evidence presented at the hearing that a person ordered to pay child support is at least three (3) months in arrears and is or has made application to be licensed or certified under the laws of this state, the court or the Department of Human Services, as applicable, in addition to any other enforcement action available may direct the licensing board to not issue, refuse to renew a license or certificate or suspend the license or certificate of the person~~

~~delinquent in such child support payments or place such person on probation until the person no longer is delinquent in such payments. Except as otherwise provided by law, for purposes of collection of child support pursuant to the provisions of this section, any professional board established under the laws of this state shall have the authority to suspend the license or certificate of a person delinquent in child support payments, to place such person on probation, or to not issue or renew such license or certificate.~~

~~B. If a professional board~~ professional licensing board or state agency issuing occupational licenses or certificates established ~~under~~ pursuant to the laws of this state receives an order from the court or the Department of Human Services, as applicable, ~~referring~~ dealing with the issue of nonissuance or nonrenewal or suspension of a license ~~or certificate~~ of a person found by the court or the Department of Human Services, ~~as applicable,~~ to be in arrears for the payment of child support, the board shall, within thirty (30) days from receipt of the order, provide notice to the applicant, licensee ~~or certificate holder~~ and hold a hearing ~~within thirty (30) days after notification on the matter.~~ If the board finds the person ~~in arrears,~~ is an applicant, or licensed by the board and evidence of full payment of arrearages found to be due by the court or the Department of Human Services is not presented at the hearing, the board shall ~~take action to~~ not issue ~~or,~~ nonrenew or suspend the license ~~or the certificate~~ unless the board determines that probation is appropriate under subsection C of this section. The board shall not lift the probation, suspension or nonissuance or nonrenewal until the licensee ~~or certificate holder~~ files with the board proof showing that he is current in his payments.

B. The only issues to be determined by the board are whether the person named in the order is a licensee, whether the arrearages have been paid and whether suspension or probation or nonissuance or

nonrenewal is appropriate. No evidence with respect to the appropriateness of the order or ability of the person to comply shall be received or considered by the board.

C. 1. If ~~at the hearing~~ the board determines that the nonissuance or nonrenewal or suspension of the license ~~or certificate~~ would create an extreme hardship to either the licensee ~~or certificate holder~~ or to persons who the licensee ~~or certificate holder~~ serves, the board may, in lieu of suspension, nonissuance or nonrenewal, allow the licensee ~~or certificate holder~~ to practice or continue to practice his profession on probation.

2. Probation shall be conditioned upon full compliance with the order which referred the matter to the board. If the board grants probation, the probation period shall not exceed three (3) years and the terms of probation shall provide for automatic suspension of the license ~~or certificate~~ if the licensee ~~or certificate holder~~ does not provide monthly proof to the board of full compliance with the order which referred the matter to the board or such further court or administrative order if that order is subsequently modified by the court or the Department of Human Services, ~~as applicable.~~

~~D. The only issues to be determined by the board are whether the person named in the order is a licensee or certificate holder, whether the arrearages have been paid and whether suspension or probation or nonissuance or nonrenewal is appropriate. No evidence with respect to the appropriateness of the order or ability of the person to comply shall be received or considered by the board.~~

3. If the licensee or certificate holder ~~is placed on probation~~ has a modification petition pending before the court or Department of Human Services, the board may, without a hearing, defer ~~the revoking a revocation~~ a revocation of probation and institution of a suspension until receipt of a ruling by the court or the Department of Human Services, ~~as applicable, upon a showing that a petition for modification of a prior order filed by the licensee or certificate~~

~~holder is pending before the court or the Department of Human Services, as applicable on the modification order. If a A licensee or certificate holder has been who was placed on probation and automatically then suspended, he may be automatically reinstated to probation upon providing proof to the board that ~~he~~ the licensee is currently in compliance with the order.~~

~~E. D. Before a board may terminate probation, remove a suspension, issue or renew a license or certificate of a person who has been denied a license or suspended or placed on probation under this section, it shall ~~provide written notice by certified mail, return receipt requested, to the person to whom child support is owed informing such person that the licensee or certificate holder has proven to the satisfaction of the board that he is current in his payments. Such notice shall also include an opportunity for such person to protest such termination, removal or issuance or renewal upon a claim and proof that such person is not current in his payments. A protest must be commenced within thirty (30) days of receipt of the notice~~ contact the court or the Department of Human Services that referred the matter to the board to determine that the applicant is not in arrears for child support or maintenance or both.~~

~~F. Except as otherwise provided by this section, the E. The board shall not terminate probation, remove a suspension or issue or renew a license or certificate until the applicant proves to the board's satisfaction that ~~he~~ the licensee is current in ~~his~~ the payments.~~

~~G. F. This section applies to child support obligations ordered by any state, territory or district of the United States.~~

~~G. Except as otherwise provided by law, for purposes of collection of child support pursuant to the provisions of this section, any professional licensing board or state agency issuing licenses established under the laws of this state shall have the~~

authority to suspend the license of a person delinquent in child support payments, to place such person on probation, or to not issue or renew such license or certificate.

SECTION 5. This act shall become effective November 1, 1995.

45-1-1109

KSM