

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

HOUSE BILL NO. 1591

By: Peltier

AS INTRODUCED

An Act relating to poor persons; creating the Welfare and Child Support Collection Verification Act; defining terms; requiring the Department of Human Services to design, implement and operate a bank match reporting system; providing purpose; authorizing certain agreements; providing for content; requiring certain information; making release of certain information not a violation of confidentiality laws; requiring certain information; providing for procedures; providing for release of certain information to the State Banking Commissioner, and the Department of Human Services; providing for use of information; requiring certain reports of fraud; providing for confidentiality and unlawful disclosures; making certain releases unlawful; making certain actions unlawful; creating an advisory committee; providing for appointment and membership; specifying duties; providing for program sharing with other states; providing conditions and restrictions; prohibiting certain disclosures; providing exceptions; providing for liability; specifying certain penalties; authorizing certain fees; providing for codification; and providing an 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 1050.1 of Title 56, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Welfare and Child Support Collection Verification Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1050.2 of Title 56, unless there is created a duplication in numbering, reads as follows:

As used in the Welfare and Child Support Collection Verification Act:

1. "Account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or a money-market mutual fund account;

2. "Commissioner" means the State Banking Commissioner;

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

4. "Financial institution" means every federal or state commercial or savings bank, including savings and loan associations and cooperative banks, federal or state-chartered credit unions, benefit associations, insurance companies, safe deposit companies, any money-market mutual fund, and any entity authorized to do business in the state;

5. "For cause" means that the Commissioner has reason to believe that an individual has opened an account at such institution;

6. "Money-market mutual fund" means every regulated investment company within the meaning of Section 851(a) of the Internal Revenue Code which seeks to maintain a constant net asset value of One Dollar (\$1.00) in accordance with 17 CFR 270.2a-7;

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

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

9. "Reporting system" means the bank match reporting system established in Section 3 of this act; and

10. "Unit" means the Medicaid fraud control unit created pursuant to the Oklahoma Medicaid Program Integrity Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1050.3 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Department of Human Services shall design, implement and operate a bank match reporting system to:

1. Verify financial eligibility of participants in any assistance program within the jurisdiction of the Department of Human Services; and

2. Provide for the collection of child support from an obligor pursuant to a court or administrative order directing payment of child support to either the Department or the person entitled.

B. The Department shall enter into an interagency agreement with the State Banking Commissioner and such other local and state agencies as the Department deems are necessary to facilitate the implementation and utilization of the reporting system.

C. Said agencies shall obtain and provide to the Department the information requested for the purposes of this reporting system.

D. Release of any information pursuant to the Welfare and Child Support Collection Verification Act shall not be construed to violate any confidentiality law; provided such release and maintenance of the information is in compliance with the Welfare and Child Support Collection Verification Act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1050.4 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. Each financial institution in this state shall, within thirty (30) days of the end of the first quarter of every calendar year, submit to the Commissioner a report of the name, record address, social security number and other identifying data of each person maintaining an account at the financial institution. Within thirty (30) days of the end of each subsequent quarter of every calendar year, every financial institution shall submit to the Commissioner a supplemental report regarding each new account opened by a person during such quarter and each account reported in a prior quarter that has been closed during the most recent quarter. Such information shall be submitted to the Commissioner in machine readable form satisfactory to the Department. The Commissioner pursuant to an agreement with the Department of Human Services shall submit such information received pursuant to this section to the Department.

B. The Department shall update such listing every calendar quarter by removing the names of all persons who have had no prior matches in the two immediately preceding quarters.

C. The Department may continue to request account matches on such removed names once a year for the two (2) calendar years immediately following the year in which the names are removed or for cause.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1050.5 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Department of Human Services shall examine the data made available pursuant to the Welfare and Child Support Collection Verification Act under the reporting system and make positive identification of cases in which:

1. Recipients of programs included in the reporting system have assets in excess of any threshold requirement established by the Department; and

2. Child support is owed to the Department pursuant to the state child support program or to the person entitled to the support.

B. Upon a positive identification, the Department may require the financial institution to submit additional information concerning the recipient or obligor. The information furnished to the Department shall include the name of the recipient or obligor, social security number and other data to assure positive identification, and the name and location of the financial institution and the amount of financial resources of the recipient or obligor in the institution.

C. Upon the receipt of such information, the Department shall seek to verify the accuracy of the information presented which shall include but is not limited to the requirement of consultation with the recipient or obligor whose status is in question.

D. 1. If after such informal inquiry the Department determines that a recipient has incorrectly received benefits under such an assistance program, the Department shall take appropriate formal action in accordance with state and federal law to correct the error, including, but not limited to, termination of benefits.

2. If after such informal inquiry the Department determines that child support is owed pursuant to the state child support program or to the person entitled to the support, the assets of the obligor may be garnished pursuant to Sections 1170 through 1244 of Title 12 of the Oklahoma Statutes or collected pursuant to Title 56 of the Oklahoma Statutes.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1050.6 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. When the Department of Human Services has probable cause to believe that the receipt of incorrect benefits pursuant to any such program was a result of a fraudulent action by the recipient, the Department shall report the case to the Medicaid Fraud Control Unit for further action. The Unit shall provide for consideration of the willingness of the recipient to make restitution or to submit voluntary recoupment.

B. The Unit shall have access to agency records and accounts at reasonable times and may require production of books, documents and vouchers by agencies relating to any matter within the scope of an investigation pursuant to this section.

C. Whenever the Unit finds probable cause to believe that a person has engaged in fraud relating to any such programs the Unit may notify other state agencies of such information so that such state agencies may investigate whether such person has engaged in fraud in other programs.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1050.7 of Title 56, unless there is created a duplication in numbering, reads as follows:

No employee or agent of this state shall divulge any information referred to in the Welfare and Child Support Collection Verification Act, except in the manner herein prescribed to any public or private agency or individual. Information may be disclosed and shared by and between any employee of an administering agency and any other state or federal agency for the purpose of verifying eligibility and detecting and preventing fraud, error and abuse in the programs included in the reporting system. Unauthorized disclosure of any such information shall be, upon conviction, a violation punishable by a fine of Five Thousand Dollars (\$5,000.00) per offense; provided that the unauthorized release of such information about any individual shall be a separate offense from information released about any other individual. Such unauthorized release of

information shall also be cause for administrative discipline of any employee who engages in such unauthorized release.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1050.8 of Title 56, unless there is created a duplication in numbering, reads as follows:

Any financial institution who is required to submit a report pursuant to the provisions of the Welfare and Child Support Collection Verification Act who fails, without reasonable cause, to comply with such reporting requirements after notification by certified mail return receipt requested, and such failure continues for more than fifteen (15) business days after mailing of such notification of the failure to comply, without reasonable cause, or if said financial institution willfully renders false information in reply to such request, such financial institution shall be, upon conviction thereof, liable for a penalty of One Thousand Dollars (\$1,000.00).

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1050.9 of Title 56, unless there is created a duplication in numbering, reads as follows:

An advisory committee is hereby established to oversee the implementation of the bank match reporting system established pursuant to Section 3 of this act. Said advisory committee shall consist of one member of the State Senate, one member of the House of Representatives, the State Banking Commissioner or designee, the Director of the Department of Human Services or designee and six persons to be appointed by the Governor, four of whom shall represent commercial banks, savings banks, savings and loans associations, cooperative banks, credit unions, and money-market mutual funds; provided, however, that at least one member of such committee shall represent financial institutions with assets of less than One Hundred Million Dollars (\$100,000,000.00). Said members shall, annually, elect a chairperson. Said committee shall meet

from time to time and at a place convenient to its purpose. Said committee may recommend to the Commissioner and the Department changes to the report specifications, as provided in Section 3 of this act and improvements to ensure compatibility among data processing systems or other measures to reduce costs or improve efficiencies.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1050.10 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Department of Human Services, in cooperation with the State Banking Commissioner, shall establish a program of bank information sharing with other states. The Department is hereby authorized to enter into reciprocal agreements with other states to share lists of absent parents who owe support payments to the Department. Such reciprocal agreements shall only be made with states which administer programs that are substantially similar to the reporting system in this state. The bank information sharing program shall apply only to states which have similar prohibitions and penalties for disclosure of information as provided in the Welfare and Child Support Collection Verification Act and only if such prohibitions and penalties apply to information which is transmitted by the Commissioner or the Department to the other states.

B. Nothing in the Welfare and Child Support Collection Verification Act shall be construed to prevent the release by the Commissioner or the Department, pursuant to the terms of federally mandated match programs, of bank information data to the United States Social Security Administration or to agencies of other states who administer federally funded welfare and unemployment compensation programs.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1050.12 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. Unless otherwise required by applicable law, a financial institution furnishing a report or providing information to the Commissioner pursuant to the Welfare and Child Support Collection Verification Act shall not disclose to a depositor or an account holder that the name of such person has been received from or furnished to the Commissioner; provided, however, that a financial institution may disclose to its depositors or account holders that under the bank match reporting system the Commissioner has the authority to request certain identifying information on certain depositors or account holders.

B. If an institution willfully violates the provisions of this section, such financial institution shall, upon conviction thereof, pay to the Commissioner the lesser of One Thousand Dollars (\$1,000.00) or the amount on deposit or in the account of the person to whom such disclosure was made.

C. A financial institution shall incur no obligation or liability to a depositor or account holder or any other person arising from the furnishing of a report or information to the Commissioner pursuant to the Welfare and Child Support Collection Verification Act, or from the failure to disclose to a depositor or account holder that the name of such person was included in a list furnished by the Commissioner or in a report furnished by the institution to the Commissioner.

D. A financial institution may charge an account levied on by the Department of Human Services a fee, as determined by the Department, of not less than Twenty Dollars (\$20.00) nor more than Fifty Dollars (\$50.00) which shall be deducted from such account prior to remitting any funds to the Department.

SECTION 12. This act shall become effective January 1, 1996.

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