

SHORT TITLE: Child support; making certain reports of certain personnel actions mandatory; deleting dormancy period for child support obligations; creating the Welfare and Child Support Collection Verification Act; codification; effective date.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 531

By: Cain

AS INTRODUCED

An Act relating to child support; amending Section 34, Chapter 356, O.S.L. 1994 (40 O.S. Supp. 1994, Section 2-802), which relates to certain information required to be reported by employers; making certain reports of certain personnel actions mandatory and providing exceptions; providing for content of report; modifying procedures for filing; providing for retention and destruction of certain information; making violations punishable by civil penalties; amending 43 O.S. 1991, Section 137, as last amended by Section 1, Chapter 366, O.S.L. 1994 (43 O.S. Supp. 1994, Section 137), which relates to past due child support; deleting dormancy period for child support obligations; making judgment for past due support enforceable until paid in full; 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 and stating purposes; authorizing certain agreements between government agencies; providing for contents of agreements; requiring reports containing certain information; making release of certain information not a violation of confidentiality laws; providing 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, prohibiting certain disclosures, and providing penalties; creating an advisory committee and providing for appointment and membership and qualifications of members; specifying duties; providing for information sharing with other states and stating conditions and restrictions; prohibiting certain disclosures and providing exceptions; specifying penalties; authorizing fees; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY Section 34, Chapter 356, O.S.L. 1994 (40 O.S. Supp. 1994, Section 2-802), is amended to read as follows:

Section 2-802. A. ~~Employers~~ Effective September 1, 1996, an employer doing business in the State of Oklahoma may this state shall report to the Department of Human Services, Child Support Enforcement Division, the hiring:

1. Hiring or employment of any person who resides or works in this state to whom the employer anticipates paying earnings; and

2. Rehiring or return to work of any employee who was laid off, furloughed, separated, granted a leave without pay or terminated from employment.

B. ~~Such report may~~ An employer is not required to report the hiring of a person who:

1. Will be employed for less than one month's duration in the calendar year;

2. Will have gross earnings of less than Three Hundred Dollars (\$300.00) in every month; or

3. Is otherwise exempt from this provision pursuant to the rules of the Department of Human Services if needed to reduce unnecessary or burdensome reporting.

C. An employer required to report under subsection A of this section shall submit a report within fifteen (15) days of the hiring, rehiring or return to work of the employee. The report shall contain the:

1. The employee's name, address, social security number and, date of birth, estimated monthly salary, and starting date of employment and information;

2. Information regarding availability of employee dependent health care coverage, along with the; and

3. The employer's name, address, and federal identification number.

D. The report may be made by mailing a copy of the employee's W-4 form, by submitting a fax transmission of the employee's W-4 form, or faxing the report to the Child Support Enforcement Division. The report can also be submitted by submitting electronic media in a format that can be used approved by the Child Support Enforcement Division, or by any other means authorized by the Child Support Enforcement Division.

E. The Department shall retain the information for a particular employee only if the Department is responsible for establishing, enforcing, or collecting a support, medical obligation, or debt of the employee. If the employee does not owe support, a medical obligation, or a debt, the Department shall not create a record regarding the employee and the information contained in the report shall be destroyed promptly.

F. An employer who knowingly fails to report as required pursuant to this section shall be given a written warning for the

first violation and may be subject to a civil penalty of up to Three Hundred Dollars (\$300.00) per month for each subsequent violation after the warning has been given. All violations within a single month are considered a single violation for purposes of assessing the penalty.

SECTION 2. AMENDATORY 43 O.S. 1991, Section 137, as last amended by Section 1, Chapter 366, O.S.L. 1994 (43 O.S. Supp. 1994, Section 137), is amended to read as follows:

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

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

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

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

C. ~~Unless execution is issued and filed within five (5) years from date of judgment or last execution on said judgment as required by law, a judgment for past due child support shall become dormant for all purposes except for enforcement of the judgment by:~~

~~1. An income or wage assignment initiated pursuant to the laws of this state or any other state;~~

~~2. Periodic payments from the judgment debtor by order of the district court or of the Department of Human Services; or~~

~~3. Referral of the past due amount to the Internal Revenue Service and, if appropriate, to the Oklahoma Tax Commission or another state's taxation agency for interception of the judgment debtor's annual state and federal tax refund in cases being enforced by the Department of Human Services~~ Except as otherwise provided by court order, a judgment for past due child support shall be enforceable until paid in full.

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

~~D.~~ E. An arrearage payment schedule set by a court or administrative order shall not exceed three (3) years, unless the court or administrative agency finds that the imposition of such a payment schedule would be unjust, inequitable, unreasonable, or inappropriate under the circumstances, or not in the best interests of the child or children involved. When making ~~such~~ this determination, reasonable support obligations of either parent as to other children in the custody of ~~said~~ the parent may be considered. If an arrearage payment schedule ~~that exceeds~~ exceeding three (3) years is set, specific findings of fact supporting ~~such action~~ the period set shall be made.

SECTION 3. 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 4. 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 order of withdrawal account, savings account, time deposit account, money-market mutual fund account, or similar 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 bank 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 this state;

5. "For cause" means that the Commissioner has reason to believe that an individual has opened an account at an 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 5 of this act; and

10. "Unit" means the Medicaid fraud control unit created pursuant to the Oklahoma Medicaid Program Integrity Act, Section 1001 et seq. of Title 56 of the Oklahoma Statutes.

SECTION 5. 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 other local and state agencies as the Department deems are necessary to facilitate the implementation and utilization of the reporting system. These agencies shall obtain and provide to the Department the information requested for the purposes of this reporting system.

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

SECTION 6. 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 after the end of the first quarter of every calendar year, submit to the Commissioner a report of the name, address, social security number, and other identifying data of each person maintaining an account at the financial institution. Within thirty (30) days after 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 during the preceding quarter and each account reported in a prior quarter that has been closed during the most recent quarter. This 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 the information received pursuant to this section to the Department.

B. The Department shall update information received pursuant to this section 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 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 7. 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 identify 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 information reported pursuant to this section, 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 an informal inquiry the Department determines that a recipient has incorrectly received benefits under 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 an 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 8. 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 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 consider 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 program the Unit may notify other state agencies of this information to facilitate investigation of fraud in other programs.

SECTION 9. 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 information obtained pursuant to this act is a misdemeanor punishable upon conviction by a fine of up to Five Thousand Dollars (\$5,000.00) per offense. Release of information about each individual shall be a separate offense. The unauthorized release of information shall also be cause for administrative discipline of any employee who engages in an unauthorized release.

SECTION 10. 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 subject to the provisions of this act which fails, without reasonable cause, to comply with the provisions of this act after notification by certified mail, return receipt requested, and the failure continues for more than fifteen (15) business days after mailing of the notification of the failure to comply, without reasonable cause, or if the financial institution

willfully renders false information in reply to a request, the financial institution shall, upon conviction, be guilty of a misdemeanor and liable for a penalty of One Thousand Dollars (\$1,000.00).

SECTION 11. 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 5 of this act. The advisory committee shall consist of one member of the Senate, one member of the House of Representatives, the State Banking Commissioner or a designee, the Director of the Department of Human Services or a 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 the committee shall represent financial institutions with assets of less than One Hundred Million Dollars (\$100,000,000.00). The members shall annually elect a chair. The committee shall meet from time to time and at a place convenient for its purposes. The committee may recommend to the Commissioner and the Department changes and improvements to ensure confidentiality, compatibility among data processing systems, and other measures to reduce costs and improve efficiencies.

SECTION 12. 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. 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 the 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 programs, of bank information to the United States Social Security Administration or to agencies of other states which administer federally funded welfare and unemployment compensation programs.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1050.11 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 State Banking 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 the 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, the financial institution shall be guilty of a misdemeanor,

upon conviction, and 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 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 furnishing 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 the 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 the account prior to remitting any funds to the Department.

SECTION 14. This act shall become effective January 1, 1996.

45-1-0255

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