

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 706

By: Cain of the Senate

and

Seikel of the House

COMMITTEE SUBSTITUTE

An Act relating to child support enforcement;

amending 10 O.S. 1991, Sections 70, as amended by Section 3, Chapter 356, O.S.L. 1994, 77.1, as amended by Section 33, Chapter 356, O.S.L. 1994, 89, as last amended by Section 1, Chapter 273, O.S.L. 1995, 501, as amended by Section 27, Chapter 356, O.S.L. 1994, 502, as amended by Section 28, Chapter 356, O.S.L. 1994 and 503, as amended by Section 29, Chapter 356, O.S.L. 1994 (10 O.S. Supp. 1996, Sections 70, 77.1, 89, 501, 502 and 503), which relate to paternity actions, genetic markers and compensation of expert witnesses; modifying time period to contest certain statement; requiring social security numbers on orders establishing paternity; requiring notice relating to genetic testing; stating contents of notice; requiring Department to set matter for hearing; updating and modifying language; requiring court to order genetic testing; requiring additional genetic testing be paid for by certain party; amending 12 O.S. 1991, Sections 1171.2 and 1171.3, as amended

by Section 23, Chapter 356, O.S.L. 1994 (12 O.S. Supp. 1996, Section 1171.3), which relate to child support payments and income assignment proceedings; requiring child support orders be subject to immediate income assignment; requiring notice of delinquency or enforcement; modifying contents of notice; modifying procedure relating to hearing; deleting provision relating to visitation rights; stating procedure for filing notice of income assignment; requiring certain order be entered by the court; reducing time period for payment of child support subsequent to court-ordered income assignment; deleting language relating to income assignment; amending Section 34, Chapter 356 O.S.L. 1994 (40 O.S. Supp. 1996, Section 2-802), which relates to reports by employers; stating time period within which employers must make certain report; modifying contents of report; requiring the Child Support Enforcement Division to enter into certain agreements; amending 43 O.S. 1991, Sections 112, as last amended by Section 10, Chapter 131, O.S.L. 1996, 115, as amended by Section 11, Chapter 365, O.S.L. 1994, 118, as last amended by Section 13, Chapter 1, O.S.L. 1995, 118.1, as last amended by Section 24, Chapter 356, O.S.L. 1994, 135, as last amended by Section 2, Chapter 233, O.S.L. 1996, Section 1, Chapter 354, O.S.L. 1995, Section 2, Chapter 354, O.S.L. 1995, as amended by Section 18, Chapter 97, O.S.L. 1996 and Section 4, Chapter 279, O.S.L. 1992 (43 O.S. Supp. 1996, Sections 112, 115, 118, 118.1, 135, 139, 139.1 and 413), which relate to care and custody of children, order for

child support, child support guidelines, review of child support orders, lien for arrearage, legal right to child support, definitions and payment procedures; requiring social security numbers on child support orders; requiring certain agreement and stating contents; deleting certain exceptions to awarding income assignments; updating language; modifying conditions for review of child support orders; making an arrearage in child support payment a lien upon real and personal property; stating circumstances in which past child support shall not become a lien on property; stating that certain records shall constitute amount of lien; authorizing nonrenewal of certain recreational licenses and permits for failure to comply with certain subpoenas or warrants; modifying definitions; requiring licensing board to implement certain court order; deleting conditions under which certain payments are not to be paid; amending 56 O.S. 1991, Sections 237, as last amended by Section 19, Chapter 356, O.S.L. 1994, 240, as renumbered by Section 14, Chapter 365, O.S.L. 1994, and as last amended by Section 3, Chapter 354, O.S.L. 1995, Section 6, Chapter 356, O.S.L. 1994, 240.1, as amended by Section 6, Chapter 365, O.S.L. 1994, 240.2, as last amended by Section 7, Chapter 365, O.S.L. 1994, Section 7, Chapter 307, O.S.L. 1993, and 240.7, as amended by Section 1, Chapter 260, O.S.L. 1996 (56 O.S. Supp. 1996, Sections 237, 237.7, 238.6B, 240.1, 240.2, 240.12 and 240.7), which relate to support collection, definitions, notice of paternity and support obligations,

initiation of enforcement proceedings, referral or application for services, assistance in locating parents delinquent on child support and release of child support arrearage information; updating language; requiring certain support payments be made to the Division or its designee; modifying contents of certain notice; modifying definitions; deleting language exempting child support orders under certain circumstances; modifying contents of certain notice; providing the Director and the Division with certain authority; providing exception to advising obligor of certain intention; requiring certain form; requiring certain information from state agencies, political subdivisions, corporations or other businesses; requiring design, implementation and operation of financial institution match reporting system; requiring certain interagency agreement; requiring certain information be obtained and provided; construing act; requiring certain information be submitted by financial institutions and stating procedures thereto; requiring examination of certain data and use thereof; requiring submission of additional information; allowing issuance of subpoena; providing for confidentiality and penalty for violation; stating penalty for failure to submit certain report; authorizing Department and Commission to work together; stating deadline for certain reporting; authorizing the Division to enter certain orders; requiring certain notice; deleting language relating to consumer reporting agencies; amending 63 O.S. 1991, Sections 1-311, as

last amended by Section 25, Chapter 297, O.S.L. 1996, 1-311.1 and Section 9, Chapter 356, O.S.L. 1994, as last amended by Section 26, Chapter 297, O.S.L. 1996 (63 O.S. Supp. 1996, Sections 1-311 and 1-311.3), which relate to birth certificates, furnishing social security numbers and affidavits acknowledging paternity; modifying conditions for entering father's name on birth certificate; deleting legislative findings and language relating to the Secretary of the Department of Health and Human Services; deleting language relating to release of social security numbers; requiring social security number be recorded on death certificates; stating contents on certain affidavits; requiring applications for professional or occupational licenses contain certain information; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 70, as amended by Section 3, Chapter 356, O.S.L. 1994 (10 O.S. Supp. 1996, Section 70), is amended to read as follows:

Section 70. A. Except as otherwise provided by law, a woman who gives birth to a child is the natural mother of the child.

B. Paternity may be established by:

1. A notarized written statement of the father and mother acknowledging paternity pursuant to Section ~~9~~ 1-311.3 of ~~this act~~ Title 63 of the Oklahoma Statutes. Such statement acknowledging paternity shall have the same legal effect as an order of paternity

entered in a court or administrative proceeding. Such statement may be contested for a period of not more than ~~two (2) years~~ sixty (60) days after signing the statement. Except for the child after ~~two (2) years~~ sixty (60) days, paternity may not be disputed by anyone;

2. Scientifically reliable genetic tests, including but not limited to blood tests;

3. Court or administrative order; or

4. As otherwise provided by law.

C. Proceedings to establish paternity may be brought in the appropriate district court or through the Department of Human Services, Office of Administrative Hearings: Child Support, by the mother, the father, guardian or custodian of the child, the Department of Human Services, the district attorney, a public or private agency or authority chargeable with the support of the child, or by the child. The court, after determining paternity in a civil action, shall provide for the support and maintenance of the child. The social security numbers of all parties shall be included in all orders establishing paternity. The court shall further make provision for custody and visitation based upon the best interests of the child.

D. An action to establish paternity shall be available to a child if commenced within one (1) year after the child reaches the age of eighteen (18).

SECTION 2. AMENDATORY 10 O.S. 1991, Section 77.1, as amended by Section 33, Chapter 356, O.S.L. 1994 (10 O.S. Supp. 1996, Section 77.1), is amended to read as follows:

Section 77.1 A. When the paternity petition is filed, the court shall order the defendant to appear and show cause why the court should not determine him to be the father. If the defendant fails to appear, the court shall upon the findings of the judge enter an order determining paternity. If the defendant appears and

does not admit paternity, then the court shall enter at that time an order directing genetic testing to determine paternity.

B. When the paternity action is filed by the Department of Human Services, the Director of the Department of Human Services shall serve notice on the parties to appear for genetic testing at a date, time and place certain. The notice shall contain information as to how the putative father may admit paternity prior to the genetic test, and that the putative father may object to genetic testing by filing an affidavit denying paternity and setting forth facts establishing a reasonable possibility of nonexistence of sexual contact and serving on the Department. After the Department receives the affidavit it shall set the matter for hearing before the district court.

SECTION 3. AMENDATORY 10 O.S. 1991, Section 89, as last amended by Section 1, Chapter 273, O.S.L. 1995 (10 O.S. Supp. 1996, Section 89), is amended to read as follows:

Section 89. A. The mother, putative father, guardian or custodian of the child, the Department of Human Services, a public or private agency or authority chargeable with the support of the child, or the child may bring an action in a civil proceeding in district court or by an administrative action through the Department of Human Services, to determine paternity and the amount of child support due and owing for the maintenance of the child.

B. Venue of an action to determine the paternity of a child pursuant to this section shall be, at the option of the plaintiff, in either the county where the putative father, mother, or child resides. If the mother or child or both the mother and child reside out-of-state, venue of an action to determine the paternity of a child pursuant to this section, at the option of the plaintiff, may be in the county where the putative father resides.

C. A court may exercise personal jurisdiction over a person, whether or not a resident of this state, who is the subject of a

paternity action. When a person who is subject to the jurisdiction of the court is outside the state, the person may be served outside of the state by any method that is authorized by the statutes of this state. In an action brought in this state to determine paternity and which also seeks a support order, jurisdiction shall be determined pursuant to the Uniform Interstate Family Support Act.

D. The petition shall be verified as true by the affidavit of the plaintiff. A summons may be issued thereon and shall be served or publication made as in other civil cases.

E. The practice, pleading, and proceedings in such action shall conform to the rules prescribed by the code of civil procedure as far as the same may be applicable.

F. If the defendant fails to answer the petition of the plaintiff or appear for show cause hearing, then the court shall proceed to determine issues of paternity, support, custody and visitation in the same manner as provided for in actions for divorce.

G. Attorneys for the Department of Human Services may appear or initiate an action brought under this section on behalf of:

1. A recipient of ~~Aid to Families with Dependent Children~~ Temporary Assistance for Needy Families; or

2. A person not receiving ~~Aid to Families with Dependent Children~~ Temporary Assistance for Needy Families, including but not limited to the putative father, upon the request of such person and proper application pursuant to rules and regulations adopted by the Department. A reasonable fee and costs may be assessed for the services by the Department.

H. In a proceeding brought under subsection G of this section by the Department of Human Services, the court may, and unless it is not in the best interests of the child, shall, limit the issues in that proceeding to issues of paternity and support, unless issues of

custody and visitation are specifically and affirmatively pled by the father.

SECTION 4. AMENDATORY 10 O.S. 1991, Section 501, as amended by Section 27, Chapter 356, O.S.L. 1994 (10 O.S. Supp. 1996, Section 501), is amended to read as follows:

Section 501. In a civil action in which paternity is a relevant fact, the court, ~~upon its own initiative or upon suggestion made by or on behalf of any person whose blood or other genetic markers are involved may, or upon motion of any party to the action shall,~~ order the mother, child and putative father to submit to genetic testing. If any party refuses to submit to such tests, the court may resolve the question of paternity against such party or enforce its order if the rights of others and the interests of justice so require unless such individual is found to have good cause for refusing to cooperate.

SECTION 5. AMENDATORY 10 O.S. 1991, Section 502, as amended by Section 28, Chapter 356, O.S.L. 1994 (10 O.S. Supp. 1996, Section 502), is amended to read as follows:

Section 502. The tests shall be made by experts qualified as examiners of genetic markers in the human body. The experts shall be called by the court or by a party as witnesses to testify as to their findings and shall be subject to cross-examination by the parties. Any party may request that ~~other~~ additional experts qualified as examiners of genetic markers in the human body perform independent tests subject to order of court, the results of which may be offered in evidence. The number and qualifications of said experts shall be determined by the court.

SECTION 6. AMENDATORY 10 O.S. 1991, Section 503, as amended by Section 29, Chapter 356, O.S.L. 1994 (10 O.S. Supp. 1996, Section 503), is amended to read as follows:

Section 503. The compensation of each expert witness appointed by the court or called by a party and costs of tests required

pursuant to the provisions of the Genetic Testing to Determine Paternity Act shall be fixed at reasonable amounts by the court. Said compensation and costs shall be paid as the court shall order. The court may order that said compensation and costs be paid by the parties in such proportions and at such times as it shall prescribe, or that the proportion of payment of said compensation and costs of any indigent party be paid by the county or by any other appropriate public or charitable agency, however all additional testing must be paid for by the party requesting the additional test. The court may order that, after payment by the parties, or the county or other appropriate agency, or both, said compensation and costs may be taxed as costs in the action.

SECTION 7. AMENDATORY 12 O.S. 1991, Section 1171.2, is amended to read as follows:

Section 1171.2 A. Any person awarded custody of and support for a minor child by the district court or awarded periodic child support payments by the Department of Human Services, or the Department of Human Services on behalf of a recipient of aid to families with dependent children or on behalf of a person not receiving aid to families with dependent children, ~~upon proper application,~~ shall be entitled to proceed to collect any current child support and child support due and owing through income assignment pursuant to the provisions of this section and Sections ~~12~~ 1171.3 and ~~13~~ 1171.4 of this title or Sections ~~22~~ 240 through ~~25~~ 240.3 of ~~this act~~ Title 56 of the Oklahoma Statutes or by garnishment, if the minor child is in the custody and care of the person entitled to receive the child support or as is otherwise provided by the court or administrative order at the time of the income assignment or garnishment proceedings.

B. All current child support orders issued prior to October 1, 1996 are subject to immediate income assignment without any need for a hearing by the district or administrative court.

C. The maximum part of the aggregate disposable earnings of any person for any workweek which is subject to garnishment or income assignment for the support of a minor child shall not exceed:

1. Fifty percent (50%) of such person's disposable earnings for that week, if such person is supporting his spouse or a dependent child other than the child with respect to whose support such order is used; and

2. Sixty percent (60%) of such person's disposable earnings for that week if such person is not supporting a spouse or dependent child.

The fifty percent (50%) specified in paragraph 1 of this subsection shall be deemed to be fifty-five percent (55%) and the sixty percent (60%) specified in paragraph 2 of this subsection shall be deemed to be sixty-five percent (65%), if and to the extent that such earnings are subject to garnishment or income assignment to enforce a support order with respect to a period which is prior to the twelve-week period which ends with the beginning of such workweek.

SECTION 8. AMENDATORY 12 O.S. 1991, Section 1171.3, as amended by Section 23, Chapter 356, O.S.L. 1994 (12 O.S. Supp. 1996, Section 1171.3), is amended to read as follows:

Section 1171.3 A. Any person or entity entitled to receive child support payments for the current or for any prior month or months, or such person's legal representative may initiate income assignment proceedings by filing with the court ~~an application signed under oath specifying~~ a notice of delinquency or other notice of enforcement. Notice shall be served upon the obligor in the same manner prescribed for the service of summons in a civil action. The notice shall inform the obligor of the following:

1. ~~That the obligor has failed to make child support payments required by a child support order in an amount equal to the child support payable for at least one (1) month~~ The amount of support monies owed, if any;

~~2. A certified copy of the support order and all subsequent modifications or orders relating thereto~~ That the obligor may object to all or any part of the notice at a hearing which will be held at a given location on a date specified in the notice to show cause why the obligor should not be determined liable for the relief requested in the notice;

~~3. That some person or entity, known or unknown, is indebted to or has earnings in his/its possession or under his control belonging to the obligor;~~

~~4. That the indebtedness or earnings specified in the affidavit, to the best of the knowledge and belief of the person making such affidavit, are not exempt by law; and~~

~~5. The amount of the support order and the amount of arrearage.~~

~~B. 1. Upon application by the person or entity entitled to receive child support payments or such person's legal representative, the court shall mail, by certified mail, return receipt requested, to the last-known address of the obligor, or shall serve in accordance with law, a notice of delinquency. The notice of delinquency shall be postmarked or issued no later than ten (10) days after the date on which the application was filed and shall specify:~~

- ~~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 or service on the obligor of the delinquency notice, said date of mailing to be specified in the notice, the obligor requests a hearing with the district court pursuant to this section;~~
- ~~c. that on or prior to the date of the hearing, in any case in which services are not being provided under~~

~~the state child support plan as provided under Section 237 of Title 56 of the Oklahoma Statutes, the obligor may prevent the income assignment from taking effect by paying the full amount of the arrearage plus costs and attorney's fees provided, that the obligor shall only be entitled to prevent such income assignment from taking effect under this subparagraph a maximum of two times, thereafter, payment of any arrearages will not prevent an income assignment from taking effect;~~

d. ~~that at the hearing, if requested, the obligor may contest the claimed delinquency allegations in the notice only with regards to mistake of identity, or to the existence or the amount of the delinquency support monies owed; and~~

e. 4. ~~that~~ That the assignment shall remain in effect for as long as current child support is due or child support arrearages remain unpaid and that payment of any arrearages, ~~except as provided in subparagraph c of this subsection,~~ will not prevent an income assignment from taking effect.

~~2.~~ ~~a.~~ B. 1. An obligor may request a hearing with the court pursuant to this section on or before the fifteenth day from date of ~~mailing or~~ service of the ~~delinquency~~ notice. Upon request for hearing, the court shall set the matter for a hearing. A file-stamped copy of the request and a copy of the order for hearing shall be ~~served in accordance with law upon the person or entity filing the affidavit for income assignment or his/its legal representative~~ sent to the obligor by certificate of mailing. The court shall

promptly hear and determine the matter and, unless the obligor successfully shows that there is a mistake of identity or a mistake as to the existence or the amount of delinquency support monies owed, the court shall enter a judgment, determine the amount of judgment payments, if any and order that the income assignment take effect against the disposable earnings of the obligor;

~~b.~~ 2. The court may order an obligor to pay all court costs and attorneys' fees involved in an income assignment proceeding pursuant to this subsection;

~~c.~~ 3. 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; ~~and~~ .

~~d.~~ ~~In all cases of paternity and for arrearage of child support, the court shall make inquiry to determine if the noncustodial parent has been denied reasonable visitation. If reasonable visitation has been denied by the custodial parent to the noncustodial parent, the court or administrative judge shall include visitation provisions in the support order.~~

C. ~~The court~~ Once an income assignment has been ordered by the court, the applicant shall file the original notice of income assignment with the court and send a copy of the notice of the income assignment to the payor to effectuate the assignment pursuant to subsection E of this section.

D. If, within fifteen (15) days of the date of mailing or service on the obligor of the delinquency enforcement notice, the obligor fails to request a hearing pursuant to subsection B of this section, or after having requested a hearing fails to appear at the

hearing, the court shall enter an order granting judgment for arrearage, if any, establishing a judgment payment plan, if any, and approving the income assignment. After the court has ordered an income assignment, the applicant shall file the original notice with the court and send a copy of the 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, C and D of this section shall be sent by the applicant ~~court~~ to the payor ~~listed on the application~~. The notice shall be sent by certified mail, return receipt requested or served according to 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 receives notice thereof and the amount withheld shall be sent to the person entitled to the child support within ~~ten (10)~~ seven (7) days after the date upon which the obligor is paid. The payor shall include with each payment a statement reporting the date on which the obligor's support obligation was withheld~~†~~†
- b. the amount specified in the support order and the amount of the arrearage to be withheld from the obligor's earnings. 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 this title~~†~~†
- c. that the withholding is binding upon the payor until further order of the court or as long as the order for support on which it is based remains in effect~~†~~†

- 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[†]l
- e. that two or more income assignments may be levied concurrently, but if the total levy exceeds the maximum permitted under Section 1171.2 of this title, all current child support due shall be paid before the payment of any arrearages. If total current child support exceeds the maximum permitted under Section 1171.2 of this title, the amount available shall be paid pro rata by the percentage of total current support owed to all obligees. After current support, the sums due under the first assignment issued under this section shall be paid before the payment of any sums due on any subsequent income assignment; provided, that the court which issued the initial income assignment, upon notice to all interested parties, is authorized to prorate the payment of the support between two or more income assignments levied concurrently[†]l
- f. If the amount of support due under the assignments exceeds the maximum amount authorized by Section 1171.2 of this title, the payor shall pay the amount due up to the statutory limit, and payor shall send written notice to the court and person entitled to support that the amount due exceeds the amount subject to withholding; if payor fails to pay or notify as required herein, the payor may be liable for an amount up to the accumulated amount that is due and owing upon receipt of the notice[†]i

- g. that, if the payor is the obligor's employer, the payor shall notify the person entitled to the support payment, and the court when the obligor terminates employment. The payor shall provide by written notice to the person entitled to support and to the court, the obligor's last-known address and the name of the obligor's new employer, if known~~+~~L
- h. 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 C of this section, the payor shall send written notice to the court and the person entitled to support within ten (10) days of receipt of said notice. Failure to notify the person entitled to support and the court 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~~+~~L and
- i. that the payor may also be fined not more than Two Hundred Dollars (\$200.00) for failure to make the required deductions.

2. The payor may combine withheld amounts from earnings of two or more obligors subject to the same support order 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; provided, however, income assignments issued pursuant to the provisions of this section and garnishments for child support issued pursuant to the provisions of

Section 1173.1 of this title shall be of equal priority, except as may otherwise be provided for in this section.

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

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

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

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

F. Upon written notification of the name and address of a new employer or payor and payment of the required fees for mailing by the person or entity entitled to support, the court shall issue a new notice of income assignment pursuant to subsection E of this section.

G. Any existing support order or income assignment which is brought before the court shall be modified by such court to conform to the provisions of this section.

H. 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.

I. 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.

J. ~~1. Effective November 1, 1989, in all child support orders wherein child support is being paid to a recipient of Aid to Families with Dependent Children (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 on the effective date of this act.~~

2. ~~Effective November 1, 1990, 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 hearing officer shall order the wage of any parent required by court or administrative order to pay support, be 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 court or administrative hearing officer finds that 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.~~

3. Effective January 1, 1994, in all 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 as provided under Section 237 of Title 56 of the Oklahoma Statutes, the court shall order the wages of any parent ordered to pay child support be subject to immediate income

assignment regardless of whether support payments are in arrears at the time of the order, unless (1) one of the parties demonstrates and the court finds that 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.

K. Notwithstanding the provisions of subsection J of this section, an income assignment shall be established pursuant to subsections A through I of this section or pursuant to Section 240.2 of Title 56 of the Oklahoma Statutes when there exists a delinquency equal to at least one month's payment.

L. In all orders which are not subject to immediate income withholding pursuant to subsection J of this section and which were issued prior to November 1, 1990, the wages of any parent ordered to pay child support shall be subject to immediate income assignment without regard to whether there is an arrearage, on the earliest of:

1. The date the obligor requests that such withholding begin;
2. The date as of which the custodian requests that such withholding begin to enforce a child support order entered on or before the date of the custodian's request for income withholding if a court of competent jurisdiction finds that immediate income withholding would be in the best interest of the child. In making such determination, the court shall consider, at a minimum, the timeliness of payment of previously ordered support and the agreement of the parent required to pay support to keep the court and custodian advised of his or her current employer and information on any employment-related health insurance coverage to which that parent has access; or
3. Such date as may be ordered by a court of competent jurisdiction.

SECTION 9. AMENDATORY Section 34, Chapter 356, O.S.L. 1994 (40 O.S. Supp. 1996, Section 2-802), is amended to read as follows:

Section 2-802. A. Employers doing business in the State of Oklahoma ~~may~~ shall report to the Department of Human Services, Child Support Enforcement Division, the hiring or employment of any person who resides or works in this state to whom the employer anticipates paying earnings.

B. Such report ~~may~~ shall contain the employee's name, address, social security number and date of birth, date of employment ~~and information regarding availability of employee dependent health care coverage,~~ state of employment, along with the employer's name, address and federal identification number.

C. The report must be made within twenty (20) days of hiring, or twice monthly, not less than twelve (12) nor more than sixteen (16) days apart if reported electronically or magnetically. The report may be made by mailing a copy of the employee's W-4 form with additional information, by submitting a fax transmission of the employee's W-4 form with additional information, by submitting electronic media in a format that can be used by the Child Support Enforcement Division, or by any other means authorized by the Child Support Enforcement Division.

D. The Child Support Enforcement Division shall enter into agreements with state agencies administering unemployment, worker's compensation, public assistance, Medicaid, food stamps, and other programs specified by federal law or regulation.

SECTION 10. AMENDATORY 43 O.S. 1991, Section 112, as last amended by Section 10, Chapter 131, O.S.L. 1996 (43 O.S. Supp. 1996, Section 112), is amended to read as follows:

Section 112. A. A petition or cross-petition for a divorce, legal separation, or annulment must state whether or not the parties have minor children of the marriage. If there are minor children of the marriage, the court:

1. Shall make provision for guardianship, custody, medical care, support and education of the children;

2. Unless not in the best interests of the children, may provide for the visitation of the noncustodial parent with any of the children of such noncustodial parent; and

3. May modify or change any order whenever circumstances render such change proper either before or after final judgment in the action; provided, that the amount of the periodic child support payment shall not be modified retroactively or payment of all or a portion of the past due amount waived, except by mutual agreement of the obligor and obligee, or if the obligee has assigned child support rights to the Department of Human Services or other entity, by agreement of the Department or such entity. 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.

The social security numbers of all parties shall be included in all child support orders.

B. In any action if there are minor unmarried children concerned in awarding the custody of the child or in appointing a general guardian for the child, the court shall be guided by the provisions of Section 21.1 of Title 10 of the Oklahoma Statutes and shall consider what appears to be in the best interests of the child.

C. 1. When it is in the best interests of a minor unmarried child, the court shall:

- a. assure children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, and
- b. encourage parents to share the rights and responsibilities of child rearing in order to effect this policy.

2. There shall be neither a legal preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody.

3. When in the best interests of the child, custody shall be awarded in such a way so as to assure the frequent and continuing contact of the child with both parents. To this effect, in making an order for custody to either parent, the court:

- a. may consider, among other facts, which parent is more likely to allow the child or children frequent and continuing contact with the noncustodial parent, and
- b. shall not prefer a parent as a custodian of the child because of the gender of that parent.

4. In any action, there shall be neither a legal preference or a presumption for or against private or public school or home-schooling in awarding the custody of a child, or in appointing a general guardian for the child.

5. In making an order for custody, the court may specify that:

- a. unless there is a prior written agreement to change the permanent residence of the child either parent shall notify the other parent if such parent plans to change the permanent residence of the child, and
- b. the noncustodial parent is to notify the custodial parent if such noncustodial parent plans to change permanent residence.

D. 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 shall be required to extend such support through the age of eighteen (18) if the child is regularly and continuously attending high school.

E. In any case in which provision is made for the custody or support of a minor child or enforcement of such order, the court shall inquire whether public assistance money has been provided by the Department of Human Services for the benefit of each child. If public assistance money has been provided for the benefit of the child, the Department of Human Services shall be a necessary party for the just adjudication and establishment of the debt due and owing the State of Oklahoma, as defined in Section 238 of Title 56 of the Oklahoma Statutes and for the just adjudication and establishment of current child support.

F. In any case in which a child support order or custody order or both is entered, enforced or modified, the court may make a determination of the arrearages of child support, if any.

SECTION 11. AMENDATORY 43 O.S. 1991, Section 115, as amended by Section 11, Chapter 365, O.S.L. 1994 (43 O.S. Supp. 1996, Section 115), is amended to read as follows:

Section 115. A. Every order providing for the support of a minor child or a modification of such order, whether issued by a district court or an administrative court, shall contain an immediate income assignment provision ~~if Aid to Families with Dependent Children is being paid for such children,~~ regardless of whether support payments by such parent are in arrears. ~~In all administrative or district court orders in which child support services are being provided under the state child support plan an immediate income assignment shall be ordered, regardless of whether support payments by such parent are in arrears, unless:~~

~~1. One of the parties demonstrates and the district 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 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 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.

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

SECTION 12. AMENDATORY 43 O.S. 1991, Section 118, as last amended by Section 13, Chapter 1, O.S.L. 1995 (43 O.S. Supp. 1996, Section 118), is amended to read as follows:

Section 118. A. Except in those cases where parties represented by counsel have agreed to a different disposition, there shall be a rebuttable presumption in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the following guidelines is the correct amount of child support to be awarded. The district 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. The 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 only

natural, legal, or legally adopted minor children in the custody of said parent. If the district or administrative court deviates from the amount of support indicated by these guidelines, it shall make specific findings of fact supporting such action.

B. Child support guidelines are as follows:

1. All child support shall be computed as a percentage of the combined gross income of both parents. The Child Support Guideline Schedule as provided in Section 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)~~ Temporary Assistance for Needy Families (TANF), 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 or administrative court to be inappropriate for determining gross income for purposes of

calculating child support. The district 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 district or administrative 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 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 or administrative court order for current 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 debt is actually made. In any case where deduction for such debt service is made, the district 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 subsection 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 or administrative court. The premium shall be allocated between the parents in the same proportion as base child support;

11. The obligor shall receive credit for the obligee's allocated share of medical insurance premium which the obligor pays directly to the provider. The obligor shall pay his or her (obligor's) allocated share of the medical insurance premiums to obligee, if obligee pays the premium to the provider;

12. The district 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. If the district or administrative court determines that it will not cause detriment to the child, in lieu of payment of child care costs incurred during employment, active employment search, or while the custodial parent is attending school, the noncustodial parent may be allowed to provide care of the child during such time. The noncustodial parent shall be designated the "obligor". The custodial parent shall be designated the "obligee". Obligor's proportionate amount of the child care fee for that month shall be paid to the obligee on or before the date the child care fee is due to the provider. The district or administrative court shall require the obligee to provide obligor 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 as an addition to or as a credit against the child support obligation of the obligor. 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 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 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 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 "obligor" and one the "obligee", if the district 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 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 obligation in order to equalize the child support spent on all of the children, regardless of the custodial arrangements. The court shall not take into account any stepchildren of such parent in making the determination but only natural, legal, or legally adopted minor children in the custody of either parent may be taken into account in determining child support;

18. The district or administrative court may make adjustments to child support guidelines for periods of extended visitation;

19. Child support orders may be modified if the support amount is not in accordance with the child support guidelines or upon other material change in circumstances. 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. The child support guidelines provided in this act shall be used in computing child support, subject to the discretion of the district 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. A child support order shall not

be construed to be a per child order unless specified by the district or administrative court in the order. Child support is not automatically modified in a child support order which provides for more than one child when one of those children reaches majority or is not otherwise entitled to support pursuant to the support order; however, such circumstance shall constitute a material change in circumstances;

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

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

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

23. Child support orders issued for prior-born children of the payor may not be modified for the purpose of providing support for later-born children.

SECTION 13. AMENDATORY 43 O.S. 1991, Section 118.1, as last amended by Section 24, Chapter 356, O.S.L. 1994 (43 O.S. Supp. 1996, Section 118.1), is amended to read as follows:

Section 118.1 A. ~~The Department shall commence a review of all orders in which child support rights have been assigned as provided pursuant to 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 and provides for medical coverage. Such review shall be conducted every thirty-six (36) months.~~ In all ~~other~~ cases in which child support services are being provided under the state child support plan as provided in Section 237 of Title 56 of the Oklahoma Statutes, the Department shall conduct a review upon the request of ~~either~~ any party or upon

its own decision. All reviews will be conducted pursuant to rules promulgated by the Department. Prior to such review, all parties shall receive notice of the review as provided by law. If the Department determines that individual awards are not in accordance with such guidelines, the case shall be presented to the district or administrative court for action. The district or administrative court shall review the award to determine its compliance with child support guidelines and order modification if appropriate.

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

SECTION 14. AMENDATORY 43 O.S. 1991, Section 135, as last amended by Section 2, Chapter 233, O.S.L. 1996 (43 O.S. Supp. 1996, Section 135), is amended to read as follows:

Section 135. A. An arrearage in payment of child support reduced to an order of the court or administrative order of the Department of Human Services or any past due payment or installment of child support that is a judgment and lien by operation of law may be a lien against the real and personal property of the person ordered to make such support payments.

B. Past due amounts of child support shall not become a lien upon the real and personal property of the person ordered to make such payments ~~until the person has been given notice and opportunity for a court or administrative hearing to determine the amount that is past due~~ at the time they become past due, provided that the payments are to be made through the state central payment registry, provided that if the person has been given a hearing in some other proceeding to contest the amount past due, the person shall not be entitled to another hearing to determine whether amounts are past due for the same time period.

C. A certified copy of the judgment or order providing for the payment of an arrearage of child support or, subject to the provisions of subsection B of this section, a certified copy of a

judgment or order providing for payment of child support pursuant to which a past due amount has accrued may be filed with the county clerk of the county where real property owned by the person obligated to pay support is situated and shall, from the time it is filed of record, become a lien upon the real property, or upon any real property which may be acquired by the person prior to the release of the lien, for the amount of the arrearage. At the time the state central registry becomes operational, the official records of that agency shall constitute the amount of lien on the obligor's property. The judgment or order shall not become a lien for any sums prior to the date they severally become due and payable. A child support judgment shall become dormant as a lien upon real property five (5) years from the date the judgment is filed of record with the county clerk unless execution is issued and filed with the county clerk within five (5) years from the date the judgment is determined or last execution on the judgment is issued as required by law.

D. 1. ~~Judgments~~ Additionally, judgments or orders providing for the payment of an arrearage of child support or, subject to the provisions of subsection B of this section, a judgment or order providing for payment of child support pursuant to which a past due amount has accrued shall become a lien upon the personal property of the person ordered to pay the support upon:

- a. the filing of an affidavit and a certified copy of the judgment or order in the office of the county clerk of the county in which the personal property is situated~~+~~+ and
- b. issuance of execution on the judgment or order and levy of execution upon the personal property~~+~~+ and
- c. the taking of physical possession thereof~~+~~+ or
- d. the filing of an affidavit and a certified copy of the judgment or order with the Administrator of the

Workers' Compensation Court, if a proceeding for compensation under the Workers' Compensation Act, Section 1 et seq. of Title 85 of the Oklahoma Statutes has been initiated by or on behalf of the obligor.

2. The affidavit provided for in paragraph 1 of this subsection shall identify:

- a. the case~~†~~
- b. whether the judgment or order was rendered by the Department of Human Services or by the court, and if by the court, then the name of the court~~†~~
- c. the name of the person against whom the judgment or order was rendered~~†~~
- d. the name of the person for whom the judgment or order was rendered~~†~~
- e. the principal sum of the judgment or order for arrearages or the amount that is past due pursuant to the judgment or order~~†~~ and
- f. the date on which the judgment or order was rendered.

3. Upon the filing of an affidavit pursuant to subparagraph d of paragraph 1 of this subsection, a copy of the affidavit shall be mailed by certificate of mailing to the last-known address of the obligor and to all attorneys and insurance carriers of record.

E. The provisions of this section shall not authorize a sale of any property to enforce a lien which is otherwise exempted by state law.

F. A lien shall be released upon the full payment of the amount of the arrearage.

G. The person entitled to support or the Department of Human Services on behalf of its clients and recipients is authorized to enforce the liens created pursuant to this section and to execute releases or partial releases of such liens.

SECTION 15. AMENDATORY Section 1, Chapter 354, O.S.L. 1995 (43 O.S. Supp. 1996, Section 139), is amended to read as follows:

Section 139. The Legislature finds and declares that child support is a basic legal right of the state's parents and children, that mothers and fathers have a legal obligation to provide financial support for their children and that child support payments can have a substantial impact on child poverty and state welfare expenditures. It is therefore the Legislature's intent to encourage payment of child support to decrease overall costs to the state's taxpayers while increasing the amount of financial support collected for the state's children by authorizing the district courts of this state and the Department of Human Services to order the revocation, ~~or~~ suspension, nonissuance or nonrenewal of an occupational, professional, ~~or~~ business or any recreational license or permit, or permit including but not limited to a hunting and fishing license or other authorization issued pursuant to the Oklahoma Wildlife Conservation Code and certificates or title for vessels and motors and other licenses of registration issued pursuant to the Oklahoma Vessel and Motor Registration Act and the driving privilege of or to order probation for a parent who is in noncompliance with an order for support for at least ninety (90) days ~~or~~ or failing, after receiving appropriate notice to comply with subpoenas or warrants relating to paternity or child support proceedings.

SECTION 16. AMENDATORY Section 2, Chapter 354, O.S.L. 1995, as amended by Section 18, Chapter 97, O.S.L. 1996 (43 O.S. Supp. 1996, Section 139.1), is amended to read as follows:

Section 139.1 A. As used in this section, Section 230.3 of Title 56 of the Oklahoma Statutes, and Section 6-201.1 of Title 47 of the Oklahoma Statutes:

1. "Licensing board" means any bureau, department, division, board, agency or commission of this state or of a municipality in this state that issues a license;

2. "Noncompliance with an order for support" means that the obligor has failed to make child support payments required by a child support order in an amount equal to the child support payable for at least ninety (90) days or has failed to make full payments pursuant to a court-ordered payment plan for at least ninety (90) days or has failed to obtain or maintain health insurance coverage as required by an order for support for at least ninety (90) days or has failed, after receiving appropriate notice to comply with subpoenas or warrants relating to paternity or child support proceedings;

3. "Order for support" means any judgment or order for the support of dependent children issued by any court of this state or other state or any judgment or order issued in accordance with an administrative procedure established by state law that affords substantial due process and is subject to judicial review;

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

5. "License" means a license, certificate, registration, permit, approval or other similar document issued by a licensing board granting to an individual a right or privilege to engage in a profession, occupation, or business, or any recreational licenses or permits including but not limited to hunting and fishing licenses or other authorizations issued pursuant to the Oklahoma Wildlife Conservation Code and certificates of title for vessels and motors and other licenses or registrations issued pursuant to the Oklahoma Vessel and Motor Registration Act or a driver license or other permit issued pursuant to Title 47 of the Oklahoma Statutes;

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

7. "Person entitled" means:

- a. a person to whom a support debt or support obligation is owed,
- b. the Department of Human Services or a public agency of another state that has the right to receive current or accrued support payments or that is providing support enforcement services, or
- c. a person designated in a support order or as otherwise specified by the court; and

8. "Payment plan" includes, but is not limited to, a plan approved by the court that provides sufficient security to ensure compliance with a support order and/or that incorporates voluntary or involuntary income assignment or a similar plan for periodic payment on an arrearage and, if applicable, current and future support.

B. 1. Except as otherwise provided by this subsection, the district courts of this state are hereby authorized to order the revocation ~~or~~, suspension, nonissuance or nonrenewal of a license or the placement of the obligor on probation who is in noncompliance with an order for support.

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. Pursuant to Section 6-201.1 of Title 47 of the Oklahoma Statutes, the district or administrative courts of this state are hereby authorized to order the revocation or suspension of a driver license of an obligor who is in noncompliance with an order of support. In addition, the court may, in case of extreme and unusual hardship, provide for a modification of the revocation, or suspension of the driver license of an obligor who is in noncompliance with an order of support.

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

C. 1. At any hearing involving the support of a child, if the district court finds evidence presented at the hearing that an obligor is in noncompliance with an order for support and the obligor is licensed by any licensing board, the court, in addition to any other enforcement action available, may direct the licensing board to suspend or revoke the license of the obligor who is in noncompliance with the order of support until the obligor no longer is delinquent in the payments or has complied with the subpoena or warrant.

2. Upon a showing that a suspension or revocation or continued suspension ~~or~~, revocation, nonissuance or nonrenewal of a license would create a significant hardship to the obligor, to the obligor's employees, to legal dependents residing in the obligor's household, or to persons, businesses, or other entities served by the obligor, the court may place the obligor on probation and allow the obligor to practice or continue to practice the obligor's profession, occupation or business. Probation shall be conditioned upon full compliance with the order. If the court grants probation, the probationary period shall not exceed three (3) years, and the terms of probation shall provide for automatic suspension or revocation of the license if the obligor does not provide monthly proof to the court and to the person entitled to support of full compliance with the order. Proof of payment may be filed with the court clerk in the manner and form as required by the court.

D. 1. When the court determines that the support debt or support obligation is paid in full, or that the obligor has complied with the subpoena or warrant relating to paternity or child support, it shall direct the licensing board to terminate the order of suspension ~~or~~, revocation, nonissuance or nonrenewal of the license or probation of the obligor. The court shall send a copy of the order to the licensing board, the obligor and the person entitled to support.

2. Entry of this order does not limit the ability of the court to issue a new order requiring the licensing board to revoke ~~or~~, suspend, or not renew the license of the same obligor in the event of another delinquency or failure to comply.

E. 1. The court shall not lift the suspension ~~or~~, revocation, nonissuance or nonrenewal of the license or terminate the probation of the obligor until the obligor files with the court proof showing that the obligor is current in the obligor's payments as required by the court or has complied with the subpoena or warrant relating to paternity or child support.

2. Before the court orders termination of probation or removal of a suspension ~~or~~, revocation, nonissuance or nonrenewal, the court shall provide written notice by certified mail, return receipt requested, to the person entitled to child support informing the person that the obligor has proven to the satisfaction of the court that the obligor is current in the payments or has complied with subpoena or warrant. ~~The~~ Such notice shall also include an opportunity for the person entitled to child support to protest the termination ~~or~~, removal, issuance or renewal, upon a claim and proof that the obligor is not current in the obligor's payments or has not complied with subpoena or warrant. A protest must be commenced within thirty (30) days of receipt of the notice and, upon the filing of a protest, the matter shall be set for hearing. At the hearing, the obligor shall submit proof that the obligor is current in the payments as required by the court.

F. Upon receipt of a court order to suspend or revoke the license of an obligor or end probation, the licensing board shall implement the suspension or revocation of the license or placement of the obligor on probation by:

1. Determining if the licensing board has issued a license to the individual whose name appears on the order for support;

2. Notifying the obligor of the suspension, revocation or probation;

3. Demanding surrender of the license, if required;

4. Entering the suspension or revocation of the license or probation on the appropriate records; and

5. Reporting the suspension or revocation of the license or the probation as appropriate.

G. Upon receipt of a court order to not issue or not renew the license of an obligor, the licensing board shall implement by:

1. Determining if the licensing board has received an application from the individual whose name appears on the order of support and an application has been submitted for issuance or renewal of such license;

2. Notifying the obligor of the nonissuance or nonrenewal;

3. Entering the nonissuance or nonrenewal of the license as appropriate.

H. An order, issued by the court, directing the licensing board to suspend ~~or~~, revoke, not issue or renew the license of the obligor or place the obligor on probation shall be processed by the licensing board without any additional review or hearing. An order, issued by the court, directing the licensing board to suspend or revoke the license of the obligor or place the obligor on probation shall be implemented by the licensing board and shall continue until the court, judicial court of review, or Court of Civil Appeals advises the licensing board by order that the suspension ~~or~~, revocation, or probation, nonissuance or nonrenewal is terminated.

~~H.~~ I. The licensing board has no jurisdiction to modify, remand, reverse, vacate, or stay the order of the court for the suspension ~~or~~, revocation, nonissuance or nonrenewal of a license or placement of the obligor on probation.

~~I.~~ J. In the event of suspension, revocation, nonissuance or nonrenewal of a license, or a probation of the obligor, any funds

paid by the obligor to the licensing board for costs related to issuance, renewal, or maintenance of a license shall not be refunded to the obligor.

~~J.~~ K. A licensing board may charge the obligor a fee to cover the administrative costs incurred by the licensing board to administer the provisions of this section. Fees collected pursuant to this section by a licensing board which has an agency revolving fund shall be deposited in the agency revolving fund for the use by the licensing board to pay the costs of administering this section. Otherwise, the administrative costs shall be deposited in the General Revenue Fund of the state.

~~K.~~ L. Each licensing board shall promulgate rules necessary for the implementation and administration of this section.

~~L.~~ M. The licensing board is exempt from liability to the obligor for activities conducted in compliance with this ~~section~~ act.

SECTION 17. AMENDATORY Section 4, Chapter 279, O.S.L. 1992 (43 O.S. Supp. 1996, Section 413), is amended to read as follows:

Section 413. A. After implementation of the Centralized Support Registry, all child support, spousal support and related support payments shall be paid through the Registry as follows:

1. In all new or modified court or administrative 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 hearing officer shall order all payments to be paid through the Registry; and

2. In all other ~~new or modified~~ court or administrative child support orders which were issued after January 1, 1994 and require immediate income withholding, the court or administrative hearing

officer shall order all payments to be paid through the Registry unless:

- a. both parties are represented by counsel and agree in writing to an alternative arrangement, or
- b. the court determines that it is not in the best interest of the child.

If the court does not order payments to go through the Registry, the court shall make specific findings of fact and provide a specific method of accounting for support payments which is calculated to provide for clear and well-documented evidence of payment or nonpayment of support.

B. Any party desiring child support, spousal support or related support payments, that have been ordered by a court decree entered prior to the implementation of the Centralized Support Registry, to be paid through the Registry may request the court to order the payments to be made through the Registry. Upon such request, unless the court finds that it is not in the best interest of the child, the court shall order such payments to be made through the Registry.

C. After implementation of the Registry, all parties to a judgment, decree or order which requires payment of support through the Registry shall provide the Registry with their mailing address and residence address and shall provide in writing any changes in the mailing or residence address within one (1) month of changes in said address. Orders issued by the district court shall direct the parties to provide information regarding addresses to the Registry. The Registry will give notice of the address change to the other parent or custodian; provided, information on the address shall not be given if it is prohibited by a court order granted for the protection of a parent or custodian who is a party to the divorce.

D. Parties who fail to comply with subsection C of this section may be served with process by the court clerk mailing service with

proof of mailing to the last address provided to the Registry, with the following qualifications:

1. The party seeking service, which includes the Department of Human Services, must allege a lack of more recent knowledge of the whereabouts of the party sought to be served than the address information last provided to the Registry; and

2. The party seeking service has attempted to serve process by certified mail, return receipt requested, to the address last provided the Registry and has been unable to obtain service of process by that method.

SECTION 18. AMENDATORY 56 O.S. 1991, Section 237, as last amended by Section 19, Chapter 356, O.S.L. 1994 (56 O.S. Supp. 1996, 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 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~~ Temporary Assistance for Needy Families, 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~~ Temporary Assistance for Needy Families, 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~~ send a notice of such assignment or application ~~with the court ordering the payments to the obligor requiring that all support payments be made to the Division or its designee.~~ 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~~ statement that all 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~~ The notice 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~~ the redirection the obligor does not make payments to the Department as ordered, ~~said~~ the payments shall not be credited to the amount owed. The obligor shall notify the Department of any change of address, the name and address of the current employer and access to health insurance and other insurance policy information within ten (10) days of any change.

D. When support rights have been assigned to the Child Support Enforcement Division or upon proper application by an obligor or by an individual not receiving Aid to Families with Dependent Children, the Division may 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 Division informed of the name and address of the current employer of the obligor and access to health insurance and other insurance policy information of the obligor within ten (10) days of any change, and make collection and distribution of child support monies, assist in the judicial determination of the paternity of a child born out of wedlock by a district 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 Division 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~~ Temporary Assistance for Needy Families under rules adopted by the Department.

E. Child support payments made to the Division 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 adopted by the Department, consistent with federal rules or regulations.

SECTION 19. AMENDATORY 56 O.S. 1991, Section 240, as renumbered by Section 14, Chapter 365, O.S.L. 1994, and as last amended by Section 3, Chapter 354, O.S.L. 1995 (56 O.S. Supp. 1996, Section 237.7), is amended to read as follows:

Section 237.7 For the purposes of Sections 238 through ~~240.14~~ 240.25 of this title:

1. The "Child Support Enforcement Division of the Department of Human Services", hereinafter referred to as the "Division" or as the "Department", 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~~ Temporary Assistance for Needy Families, hereinafter referred to as "~~AFDC~~" "TANF", and to individuals not receiving ~~AFDC~~ TANF who have made proper application for enforcement services to the Division;

2. "Director" means the Director of the Department of Human Services who shall have the authority to enter orders in default

cases, without the necessity of an additional signature of a district or administrative judge;

3. "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.~~ 4. "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.~~ 5. "Arrearage" means the total amount of unpaid support obligations;

~~5.~~ 6. "Delinquency" means any payment under an order for support which becomes due and remains unpaid;

~~6.~~ 7. "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.~~ 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;

~~8.~~ 9. "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.~~ 10. "Person entitled" means:

- a. a person to whom a support debt or support obligation is owed,
- b. the Department of Human Services or a public agency of another state that has the right to receive current or accrued support payments or that is providing support enforcement services, or
- c. a person designated in a support order or as otherwise specified by the court;

~~10.~~ 11. "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.~~ 12. "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.~~ 13. "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 TANF, 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.~~ 14. "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;

~~14.~~ 15. "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.~~ 16. "Licensing board" means any bureau, department, division, board, agency or commission of this state or of a municipality in this state that issues a license;

~~16.~~ 17. "License" means a license, certificate, registration, permit, approval or other similar document issued by a licensing board granting to an individual a right or privilege to engage in a profession, occupation, or business or industry, or any recreational licenses or permits including but not limited to hunting and fishing licenses or other authorizations issued pursuant to the Oklahoma Wildlife Conservation Code and certificates of title for vessels and motors and other licenses or registrations issued pursuant to the Oklahoma Vessel and Motor Registration Act or a driver license or other permit issued pursuant to Title 47 of the Oklahoma Statutes;

~~17.~~ 18. "Commission" means the Commission for Human Services;
and

~~18.~~ 19. "Payment plan" includes but is not limited to a plan approved by the support enforcement entity that provides sufficient security to ensure compliance with a support order and/or that incorporates voluntary or involuntary income assignment or a similar

plan for periodic payment of past-due support and, if applicable, current and future support.

SECTION 20. AMENDATORY Section 6, Chapter 356, O.S.L. 1994 (56 O.S. Supp. 1996, Section 238.6B), is amended to read as follows:

Section 238.6B A. The Department of Human Services may serve a notice of paternity and support obligations on an individual alleged to be the parent of a child for whom paternity has not been judicially or administratively established. Venue for such action shall be, at the option of the plaintiff, in the county where the mother, father or child resides. Service of the notice shall be in the same manner as a summons in a civil action pursuant to Section 2004 of Title 12 of the Oklahoma Statutes.

B. The notice shall be verified and have attached to it a copy of any affidavit acknowledging paternity or any blood or other genetic test results, if available, and shall state:

1. The name and date of birth of any minor children, along with the name of the natural mother and custodian, if different than the mother or putative father;

2. The amount of child support and other support, including the amounts ordered pursuant to paragraph 3 of this subsection, to be ordered in accordance with the Child Support Guidelines provided in Section 118 of Title 43 of the Oklahoma Statutes;

3. The amount of reimbursement for the costs of the birth and the reasonable expenses of providing for said child which has accrued or is accruing, provided that the liability for the above costs shall be imposed for five (5) years preceding the issuance of the notice;

4. That health insurance for the child whenever such insurance is available through employment or other group health insurance plan and that payment of proportionate share of any unreimbursed health costs shall be required;

5. The amount of reimbursement requested for the costs of the genetic test to determine paternity, if any;

6. That an immediate income assignment will be effectuated for payment of current support and any judgments entered;

7. That in the absence of genetic test results or an affidavit acknowledging paternity ~~an order to appear and show cause why the administrative judge should not determine him to be the father will be issued~~ a date, time and place certain to appear for genetic testing;

8. That if the affidavit acknowledging paternity was signed within sixty (60) days prior to the date of the notice paternity may be disputed;

~~9.~~ That a father ~~not served with a notice to appear and show cause~~ may object to the notice of paternity and support obligations. To object he must, within twenty (20) days of the date of service, ~~in writing,~~ make a written request for a hearing to show cause why he should not appear for genetic testing, and be determined to be the father of any such children, liable for the support requested in the notice, for the costs accrued and accruing or the amount to be paid thereon. If the objection is to appear for genetic testing, it must include an affidavit denying paternity and setting forth fact establishing a reasonable possibility of the nonexistence of sexual contact between the parties;

~~9.~~ 10. That if the affidavit acknowledging paternity was signed within two (2) years prior to the date of the notice, or in the absence of such affidavit, paternity may be disputed. If paternity is disputed, and the Administrative Law Judge finds a reasonable possibility of the requisite sexual contact between the parties, the judge shall enter an order directing genetic tests to determine paternity and advise the putative father that if he fails to appear he will be in default and an order will be entered against him. If the putative father is not excluded, and the statistical probability

of paternity according to scientifically reliable genetic tests including but not limited to blood tests is ninety-eight percent (98%) or less and he is contesting the issue of paternity, he may request the Department to remove the action to district court to determine paternity. If the statistical probability of paternity is greater than ninety-eight percent (98%), or the statistical probability is ninety-eight percent (98%) or less and the father does not request the Department to remove to district court within fifteen (15) days of the Department mailing the genetic test or other test results, determination of paternity shall become final for all intents and purposes and may be overturned only by appeal to district court. Any such request shall be in writing and served on the Department personally or by registered or certified mail;

~~10.~~ 11. That if the putative father fails to appear at the genetic testing or show cause hearing or if no notice to appear ~~and show cause for genetic testing~~ was served and no hearing is requested on or before twenty (20) days from the date of service, the finding of paternity shall become final. The order may be docketed with the district court in the county of residence of the custodian, child or father; and

~~11.~~ 12. After paternity is determined, the Department will set a hearing to determine the child support amounts and send the parties notice of such hearing by certificate of mailing. Failure to appear at such hearing will result in a support order being entered against the father. The order may be docketed with the district court in the county of residence of the custodian, child or father. The support order shall be enforced in the same manner as an order of the district court.

C. The Department may accept voluntary acknowledgments of support liability and support amounts.

D. If the father's name has not been entered on the child's birth certificate, the Department of Human Services shall notify the

State Registrar of Vital Statistics who shall enter the father's name on the birth certificate.

E. If child support services are being provided pursuant to Section 237 of this title, prior to the issuance of the notice of paternity and support obligation, a father who denies paternity may request that a genetic test or other test be administered. The request for testing shall be in writing and served on the Department personally or by registered or certified mail.

F. If a request for testing is made pursuant to subsection B or E of this section, the Department shall arrange for the test and, pursuant to rules promulgated by the Department, may advance the cost of such testing. The Department shall mail a copy of the test results by a certificate of mailing to the father's last-known address. If a request for genetic tests was made pursuant to subsection E of this section, the Department shall mail the notice of paternity and support obligations to the father by certificate of mailing to the father's last-known address.

G. If the test excludes the father from being a natural parent, the Department shall file a copy of the results with the State Registrar of Vital Statistics and shall dismiss any pending court or administrative collection proceedings based upon the affidavit acknowledging paternity. The State Registrar of Vital Statistics shall remove the father's name from the birth certificate.

SECTION 21. AMENDATORY 56 O.S. 1991, Section 240.1, as amended by Section 6, Chapter 365, O.S.L. 1994 (56 O.S. Supp. 1996, Section 240.1), is amended to read as follows:

Section 240.1 A. In cases where child support services are being provided by the Division, the Division may initiate enforcement proceedings to obtain a judgment for arrearages; to effectuate an income assignment; 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 or administrative court to implement the collection of support from an 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 any hearing on a notice of delinquency or other enforcement proceeding, the district or administrative court may include the amount of the fee paid by the person entitled to support payments in any judgment against the obligor.

B. The Division is authorized to initiate enforcement proceedings and receive payments pursuant to Section 240.2 of this 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 Division is authorized to initiate enforcement proceedings and receive payments pursuant to Section 240.2 of this 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 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.

D. Upon application by an obligor who requests support enforcement services, the Division is authorized to initiate any proceedings necessary to provide support enforcement services to the obligor and to receive payments of the support obligation or any 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.

E. The Director has the authority to enter orders in default situations as defined in Section 23 of this act, without the necessity of obtaining an additional signature of a district or administrative judge.

F. The Division is authorized to refer any judgment for child support of more than Five Thousand Dollars (\$5,000) to the Secretary of Health and Human Services for denial of passport.

SECTION 22. AMENDATORY 56 O.S. 1991, Section 240.2, as amended by Section 7, Chapter 365, O.S.L. 1994 (56 O.S. Supp. 1996, Section 240.2), is amended to read as follows:

Section 240.2 A. After receiving a referral or application for services, the Division may initiate enforcement proceedings, as defined in Section 240.1 of this title.

1. ~~The~~ Except as provided in Section 34 of this act, the Division shall advise the obligor of the intention to initiate enforcement proceedings by a notice of delinquency, support debt or other notice. The Division shall give notice by serving the obligor in the same manner prescribed for the service of summons in a civil action. The notice shall inform the obligor of the following:

- a. the amount of support monies owed, if any,
- b. an assignment will become effective against the obligor's earnings unless the obligor requests a hearing within fifteen (15) days of the date of service of the notice,
- c. the obligor may contest the allegations in the notice only with regards to mistakes of identity or the existence or the amount of support monies owed,
- d. the assignment shall remain as long as the order upon which it is based is in effect. Payment of any support monies will not prevent an income assignment from taking effect, and

- e. the obligor shall be required to keep the Division informed of the name and address of the current employer of the obligor and access to health insurance and other insurance policy information of the obligor.
2. a. An obligor may request a hearing pursuant to this section by delivering written notice to the District Office on a form provided which states the date and location of the hearing if requested on or before the 15th day from the date of service of the notice. On receipt of the hearing request, the Division shall promptly enter the appearance of the obligor on the administrative court hearing docket. The administrative court shall hear and determine the matter and, unless the obligor successfully shows there is a mistake of identity or a mistake in the existence or the amount of support monies owed, the administrative court shall enter a judgment, determine the amount of judgment payments, if any, and order the assignment of nonexempt earnings of the obligor pay the judgment and future monthly support payments.
- b. The administrative court may order an obligor to pay all costs involved in enforcement proceedings under this subsection and shall order 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 Division shall send a notice of the income assignment to the payor to effectuate the assignment pursuant to subsection D of this section and shall file the original of such notice with OAH.

B. If within fifteen (15) days of date of service of the notice, the obligor fails to request a hearing, pursuant to subsection A of this section, 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. The administrative order shall thereafter be subject to collection action and shall be filed in the office of the court clerk in the county of residence of the custodian of the child or, if the custodian resides out of state, in the county of residence of the obligor, or elsewhere as provided in this act. The administrative order shall be enforced by the district court in the same manner as an order of the district court. A copy of the order shall be mailed to the obligor by the District Office at the last-known address of the obligor by certified or registered mail, with return receipt requested.

C. After the administrative court has ordered an income assignment, the Division shall send a notice of the income assignment to the payor pursuant to subsection D of this section to effectuate the assignment.

D. 1. The notice of the income assignment required pursuant to subsections A and B of this section shall be sent by the Division to the payor on the form prescribed by the Secretary of Health and Human Services for use interstate cases. 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 receives notice thereof and the amount withheld shall be sent to the Division 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 support obligation of the obligor was withheld†1
- b. the amount to be withheld from the obligor's earnings each pay period for support monies. 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†1
- c. the income assignment is binding upon the payor until modified by order of the district or administrative court†1
- d. 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†1
- e. 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†1
- f. if the amount of support due under the assignments exceeds the maximum amount authorized by Section 1171.2 of Title 12 of the Oklahoma Statutes, the payor shall pay the amount due up to the statutory limit and shall send written notice to the court, Division and person entitled to support that the amount due exceeds the amount subject to withholding. If the payor fails

to pay or notify as required herein, the payor may be liable for an amount up to the accumulated amount that is due and owing upon receipt of the notice~~†~~L

- g. if the payor is the obligor's employer, the payor shall notify the Division within ten (10) days of the date when the obligor terminates employment or if the employment of the obligor is terminated and shall provide the Division with the obligor's last-known address and the name of the obligor's new employer, if known~~†~~L
- h. if the payor has no current or future income due to the obligor in his possession or control, or if the obligor has terminated employment prior to the receipt of the notice required pursuant to subsection C of this section, the payor shall send written notice to the Division within ten (10) days of receipt of said notice. Failure to notify the Division 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~~†~~L
- i. the payor may also be fined not more than Two Hundred Dollars (\$200.00) for each failure to make the required deductions~~†~~L and
- j. the Division and/or the obligor may bring an action against the payor to enforce the provisions of the notice in the underlying district court case or by separate proceeding in district court.

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 by the payor in complying with the income assignment.

5. The income assignment shall remain effective regardless of any change of a payor.

6. The income assignment issued pursuant to this section shall remain in effect as long as any support monies are owed. Payment of any support monies shall not prevent the income assignment from taking effect.

7. If the employer of the obligor is the payor, the payor shall verify employment of the obligor upon the request of the Division.

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.

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

F. 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.

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

H. 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.

I. The obligated party may execute a voluntary income assignment and acknowledgment at any time and submit it to the District Office.

J. The Division is authorized to prorate the payment of the support between two or more income assignments levied concurrently.

K. The Division shall distribute the monies due a person entitled to support who is not receiving ~~Aid to Families with Dependent Children~~ Temporary Assistance for Needy Families within ten (10) working days after receipt of such monies.

SECTION 23. AMENDATORY Section 7, Chapter 307, O.S.L. 1993 (56 O.S. Supp. 1996, Section 240.12), is amended to read as follows:

Section 240.12 A. Each agency of the state or any political subdivision thereof shall provide information ~~necessary to the Department of Human Services when so requested to assist by the Department of Human Services in locating a parent delinquent on his court-ordered child support or the assets of said parent~~ when attempting to establish, modify or enforce a child support order. Including, but not limited to:

1. Information regarding the employment, compensation and benefits of any individual employed by such entity as an employee or contractor;

2. Vital statistics, including records of marriage, birth and divorce;

3. State and local tax and revenue records, including information on residence address, employer, income and assets;

4. Records containing real and titled personal property;

5. Records of occupational and professional licenses and records concerning the ownership and control of corporations, partnerships and other business entities;

6. Employment security records;

7. Records of agencies administering public assistance programs;

8. Correctional records; and

9. The Division shall have access to the Oklahoma Law Enforcement Telecommunications Systems network as created in Section 2-124 of Title 47 of the Oklahoma Statutes.

B. Each corporation or other business operating in this state, including for-profit and not-for-profit businesses, shall provide information requested by ~~to the Department of Human Services when so requested to assist~~ the Department of Human Services ~~in locating a parent delinquent on his court-ordered child support or the assets of said parent~~ when attempting to establish, modify or enforce a child support order. Including, but not limited to:

1. Information regarding the employment, compensation and benefits of any individual employed by such entity as an employee or contractor;

2. The names and addresses of such individuals and the names and addresses of the employers of such individuals, as appearing in customer records of public utilities and cable television companies, pursuant to an administrative subpoena; and

3. Information, including information on assets and liabilities on such individuals held by financial institutions.

C. The entities described above should provide automated access in the case of records maintained in automated data bases.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.22 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 financial institution match reporting system to 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 Tax Commission and such 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 this act shall not be construed to violate any confidentiality law; provided, such release and maintenance of the information is in compliance with this act.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.22B 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 this act under the reporting system and make positive identification of cases in which 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 obligor, social security number and other data to

assure positive identification, and the name and location of the financial institution.

C. If the Department determines a match between a child support obligor and an account in a financial institution, the Department may issue a subpoena seeking additional information or serve a notice of a lien on the obligor's assets in that financial institution.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.22C 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 this 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 as necessary in the collection of child support. Unauthorized disclosure of any such information shall be, upon conviction, a violation punishable by a fine of One Thousand Dollars (\$1,000.00) per offense. Such unauthorized release of information shall also be cause for administrative discipline of any employee who engages in such unauthorized release.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.22D of Title 56, unless there is created a duplication in numbering, reads as follows:

Any financial institution which is required to submit a report pursuant to the provisions of this act which 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 thirty (30) 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 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.22E 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 Commission pursuant to this 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 Commission 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 Department 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 this act.

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) not more than Fifty Dollars (\$50.00) which shall be deducted from such account prior to remitting any funds to the Department.

E. Any individual who knowingly makes an unauthorized disclosure of financial records pursuant to this act shall upon conviction thereof, be fined up to One Thousand Dollars (\$1000.00)

and shall be subject to civil proceedings for such violation of privacy.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.22F of Title 56, unless there is created a duplication in numbering, reads as follows:

The Department and the Commission are authorized to work together to implement the best method of reporting, beginning with the interstate institutions which will be required to do these same matches in every state. The first match should occur no later than January 1998, and all financial institutions in this state shall begin reporting no later than January 2000.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.23 of Title 56, unless there is created a duplication in numbering, reads as follows:

The Division has the authority to enter orders in the following actions over the signature of the Director and without the necessity of obtaining an additional signature of a district or administrative court judge:

1. To subpoena any financial or other information needed to establish, modify or enforce a support order and to impose penalties for failure to respond to such subpoena;

2. In cases in which there is support arrearage, to secure assets by:

a. intercepting or seizing periodic or lump-sum payments from:

(1) a state or local agency, including unemployment compensation, workers' compensation, and other benefits, and

(2) judgments, settlements and lotteries,

b. attaching and seizing assets of the obligor held in financial institutions,

c. attaching public and private retirement funds, and

d. imposing liens in accordance with Section 135 of Title 43 of the Oklahoma Statutes; and

3. To increase the monthly payment on child support, for purposes of securing overdue support, in an amount not to exceed five percent of the title child support order. Such increase may not be made more than once every twelve (12) months.

With respect to paragraphs 2 and 3 of this section, at the time of the action, the Division shall send a notice to the obligor explaining the obligor's rights to object to such action and have it reversed.

SECTION 31. AMENDATORY 56 O.S. 1991, Section 240.7, as amended by Section 1, Chapter 260, O.S.L. 1996 (56 O.S. Supp. 1996, Section 240.7), is amended to read as follows:

Section 240.7 A. ~~1. Any consumer reporting agency may contact the Department of Human Services and request information as to whether specified persons are at least two (2) months past due in paying child support pursuant to court or administrative support orders. The request shall include the name, address, social security number or other identifying information for the obligor.~~

~~2. If the Department determines that any obligor is required to pay child support according to the files of the Department, the Department shall provide the consumer reporting agency with a report that includes the name of the obligor who is subject to the request, a statement that the obligor is required to pay child support pursuant to one or more court or administrative support orders, the names of each court or agency that issued a child support order, and whether any of the child support orders are being administered by the Department.~~

~~3. Unless otherwise prohibited or restricted by federal law or regulation, the Commission for Human Services, by rule, shall adopt a reasonable fee that shall be paid by consumer reporting agencies for requests pursuant to this section. The fee shall not exceed the~~

estimated average actual cost experienced by the Department in performing the duties imposed upon it by this section.

B. The Department of Human Services shall establish procedures for the periodic release to consumer reporting agencies of the names and amounts of child support arrearages of obligors who owe past-due support. This information shall be released if the person obligated to pay child support pursuant to a support order is ~~at least two (2) months past due or is~~ in arrears for ~~more than One Thousand Dollars (\$1,000.00)~~ child support.

C. For purposes of this section, the term "consumer reporting agency" means any person who, for a fee, dues, or on a cooperative nonprofit basis, regularly engages in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and who uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

D. Information shall not be made available to:

1. Any consumer reporting agency which the Department or other appropriate agency determines does not have sufficient capability to systematically and timely make accurate use of the information; or

2. Any entity which has not provided satisfactory proof to the Department that the entity is a consumer reporting agency.

E. Any person obligated for child support shall be notified prior to the release of the information to a consumer reporting agency and shall be given a reasonable opportunity to be heard regarding the accuracy of the information to be released.

SECTION 32. AMENDATORY 63 O.S. 1991, Section 1-311, as last amended by Section 25, Chapter 297, O.S.L. 1996 (63 O.S. Supp. 1996, Section 1-311), is amended to read as follows:

Section 1-311. A. A certificate of birth for each live birth which occurs in this state shall be filed with the local registrar of the district in which the birth occurs, within seven (7) days

after the birth; provided, that when a birth occurs on a moving conveyance, a birth certificate shall be filed in the district in which the child was first removed from the conveyance.

B. When a birth occurs in an institution, the person in charge of the institution or a designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file the certificate with the local registrar. The physician in attendance shall certify to the facts of birth and provide the medical information required by the certificate within five (5) days after the birth.

C. When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

1. The physician in attendance at or immediately after the birth;

2. Any other person in attendance at or immediately after the birth; or

3. The father, the mother, or, in the absence or inability of the father or mother, the person in charge of the premises where the birth occurred and present at the birth.

D. 1. If the mother was married at the time of conception and birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered.

2. If the mother was not married at the time of conception and birth, the name of the father shall be entered on the certificate of birth only if:

- a. a determination of paternity has been made by an administrative action through the Department of Human Services or a court of competent jurisdiction, in which case the name of the father shall be entered, or

- b. the mother and father have signed an affidavit acknowledging paternity pursuant to Section 1-311.3 of this title, or substantially similar affidavit from another state and filed it with the State Registrar of Vital Statistics.

E. Either of the parents of the child shall sign the certificate of live birth to attest to the accuracy of the personal data entered thereon, in time to permit its filing within the seven (7) days prescribed in this section.

SECTION 33. AMENDATORY 63 O.S. 1991, Section 1-311.1, is amended to read as follows:

Section 1-311.1 A. ~~1. The Legislature finds that:~~

- ~~a. the Federal requirement that each parent be required to furnish social security numbers in the administration of the laws of this state involving the issuance of birth certificates unduly burdens the privacy rights of parents without providing a significant benefit in the establishment of paternity,~~
- ~~b. state law prohibitions on the use of social security numbers as identifiers substantially reduce the utility of providing social security numbers,~~
- ~~c. such records would not, as a practical matter, be readily available to the state IV-D program because the records of the Vital Records Section of the State Department of Health are not electronically accessible,~~

~~therefore good cause exists for not requiring that each parent furnish social security numbers in the administration of the laws of this state involving issuance of birth certificates.~~

~~2. If the Secretary of the Department of Health and Human Services of the United States shall subsequently prescribe regulations governing the determination of such good cause for not~~

~~requiring the furnishing of such social security numbers, and the Secretary determines that the good cause determination made herein is not in accordance with such prescribed regulations, then the provisions of subsection B of this section shall become operative.~~

~~B. The Vital Records Section of the State Department of Health shall obtain and record all social security numbers of the parents for each live birth in this state. Such The social security numbers shall not be recorded on the birth certificate of the child. ~~The social security numbers of the parents shall be released only to those entities providing child support services pursuant to the state plan as provided in Section 237 of Title 56 of the Oklahoma Statutes. Said information shall be used only in the establishment and enforcement of child support.~~~~

B. The Vital Records Section of the State Department of Health shall obtain and record the social security number of any person who has died in this state. The social security number shall be recorded on the death certificate of the deceased.

SECTION 34. AMENDATORY Section 9, Chapter 356, O.S.L. 1994, as last amended by Section 26, Chapter 297, O.S.L. 1996 (63 O.S. Supp. 1996, Section 1-311.3), is amended to read as follows:

Section 1-311.3 A. Unless an adoption decree has been presented, and consent to adoption has been given as otherwise provided by law, upon the birth of a child to an unmarried woman, the person required by Section 1-311 of this title to prepare and file a birth certificate shall:

1. Provide written materials to the child's mother and/or natural father including an affidavit acknowledging paternity on a form prescribed by the Department of Human Services. The completed affidavit shall be filed with the local registrar. The affidavit shall contain:

- a. a statement by the mother consenting to the assertion of paternity and stating the name of the father,

- b. a statement by the father that he is the natural father of the child, ~~and~~
- c. the social security numbers of both parents, and
- d. other information as the Secretary of Health and Human Services may require;

2. Provide written information, furnished by the Department of Human Services, to the mother:

- a. explaining that the completed, notarized affidavit shall be filed with the local registrar,
- b. regarding the benefits of having her child's paternity established and of the availability of paternity establishment services, including a request for support enforcement services, and
- c. explaining the implications of signing, including parental rights and responsibilities; and

3. Provide the original affidavit acknowledging paternity to the Office of the State Registrar of Vital Statistics. Copies of the original affidavit acknowledging paternity shall be provided to the Department of Human Services Child Support Enforcement Division and to the mother and acknowledged father of the child. The Department of Human Services shall provide access to the affidavits acknowledging paternity via electronic means to the paternity registry created pursuant to Section 55.1 of Title 10 of the Oklahoma Statutes.

B. The Department of Human Services shall make the affidavits acknowledging paternity available at each county office of the Department and at the Office of the State Registrar of Vital Statistics and at the office of each local registrar.

C. Upon receipt by the State Registrar of Vital Statistics of a certified copy of an order or decree of adoption, the State Registrar shall prepare a supplementary birth certificate as directed by Section 60.18 of Title 10 of the Oklahoma Statutes

regardless of whether an affidavit acknowledging paternity has been prepared or filed with the Office of the State Registrar of Vital Statistics pursuant to this section.

SECTION 35. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.22 of Title 56, unless there is created a duplication in numbering, reads as follows:

All applications for professional or occupational licenses in this state shall contain the applicant's name, address and social security number.

SECTION 36. This act shall become effective November 1, 1997.

46-1-7176 KSM