

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 1342

By: Cain

COMMITTEE SUBSTITUTE

An Act relating to child support; amending 10 O.S. 1991, Sections 70, as last amended by Section 1, Chapter 402, O.S.L. 1997 and 83, as last amended by Section 2, Chapter 402, O.S.L. 1997 (10 O.S. Supp. 1997, Sections 70 and 83), which relate to paternity proceedings; requiring social security number of child to be included in paternity orders; modifying liability of father for certain support; amending 12 O.S. 1991, Section 1171.3, as last amended by Section 7, Chapter 402, O.S.L. 1997 (12 O.S. Supp. 1997, Section 1171.3), which relates to income assignment proceedings; deleting requirement that court include visitation provisions in certain orders; amending Section 1, Chapter 27, O.S.L. 1994 (36 O.S. Supp. 1997, Section 6058A), which relates to enrollment of child under parent's health plan; requiring insurer to provide certain information to certain parties relating to child's health care coverage; requiring deduction of certain cost of coverage under certain circumstances; modifying

language; amending 43 O.S. 1991, Sections 112, as last amended by Section 10, Chapter 402, O.S.L. 1997, Section 15, Chapter 356, O.S.L. 1994, 135, as last amended by Section 15, Chapter 402, O.S.L. 1997, 137, as last amended by Section 3, Chapter 233, O.S.L. 1996, and Section 4, Chapter 279, O.S.L. 1992, as amended by Section 18, Chapter 402, O.S.L. 1997 (43 O.S. Supp. 1997, Sections 112, 118.2, 135, 137, and 413), which relate to care and custody of children, employer sponsored health care coverage, child support liens, child support judgment, and Centralized Support Registry payment procedures; requiring social security number of child to be included in support order; requiring the court to consider certain factors when making custody determination; conforming language; modifying duties of employers regarding dependent health insurance; extending application to certain agencies of other states; deleting requirement for certain notice and opportunity to contest past due child support amount; clarifying time period for submission of certain change of address to Centralized Support Registry; deleting certain notice requirements; amending 56 O.S. 1991, Sections 237, as last amended by Section 19, Chapter 402, O.S.L. 1997, 237.7, as last amended by Section 20, Chapter 402, O.S.L. 1997, 238.6, as amended by Section 20, Chapter 356, O.S.L. 1994, 240.1, as last amended by Section 8, Chapter 272, O.S.L. 1997, and 240.2, as last amended by Section 23, Chapter 402, O.S.L. 1997 (56 O.S. Supp. 1997, Sections 237, 237.7, 238.6, 240.1 and 240.2), which

relate to support collection, administrative procedures, initiation of certain enforcement proceedings, and notice of certain proceedings; authorizing Department to require certain entities to provide certain information; clarifying language; modifying certain notice requirement; modifying duties of Child Support Enforcement Division; requiring certain notice to support obligor; providing contents of certain notice; providing for request for certain administrative review; providing procedure for certain administrative review; adding and modifying definitions; deleting language relating to administrative procedures; authorizing the Department to initiate any legal proceeding for establishment and collection of certain support; making certain notice to obligor discretionary; authorizing filing by Department of certain administrative order; reducing time period for payment of certain assignment; prohibiting certain action by payor; modifying language; amending Section 9, Chapter 356, O.S.L. 1994, as last amended by Section 37, Chapter 402, O.S.L. 1997 (63 O.S. Supp. 1997, Section 1-311.3), which relates to affidavits acknowledging paternity; allowing certain person to provide certain presentation to certain parents; repealing 12 O.S. 1991, Sections 1171.2, as amended by Section 2, Chapter 272, O.S.L. 1997 and 1171.3, as last amended by Section 3, Chapter 272, O.S.L. 1997 (12 O.S. Supp. 1997, Sections 1171.2 and 1171.3), which are duplicate sections and which relate to income assignment

proceedings; repealing 43 O.S. 1991, Section 112, as last amended by Section 10, Chapter 403, O.S.L. 1997 (43 O.S. Supp. 1997, Section 112), which is a duplicate section and which relates to care and custody of children; repealing 43 O.S. 1991, Section 118, as last amended by Section 13, Chapter 402, O.S.L. 1997 (43 O.S. Supp. 1997, Section 118), which is a duplicate section and which relates to child support guidelines; repealing 56 O.S. 1991, Section 240.1, as last amended by Section 22, Chapter 402, O.S.L. 1997 (56 O.S. Supp. 1997, Section 240.1), which is a duplicate section and which relates to initiation of certain enforcement proceedings; 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 last amended by Section 1, Chapter 402, O.S.L. 1997 (10 O.S. Supp. 1997, 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 1-311.3 of Title 63 of the Oklahoma Statutes. ~~Such~~ A statement acknowledging paternity shall have the same legal effect as an order of paternity entered in a court or administrative proceeding. The statement may be contested by the child or another within sixty (60) days after the statement is signed;

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

3. District or administrative court 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. Proceedings may be brought 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 enter an order providing for the support and maintenance of the child. The social security numbers of both parents and the child shall be included in all orders establishing paternity. The court may 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 83, as last amended by Section 2, Chapter 402, O.S.L. 1997 (10 O.S. Supp. 1997, Section 83), is amended to read as follows:

Section 83. A. An individual who has been legally determined to be the father of a child pursuant to Section 70 of this title, or an individual who has been judicially or administratively determined to be the father of a child is liable for the support and education of the child to the same extent as the father of a child born in wedlock.

B. 1. An action to enforce the obligation of support and education may be brought by the mother or custodian or guardian of

the child, by the public authority chargeable with the support of the child, or by the child.

2. An action to determine paternity and to enforce this obligation may be brought any time before the eighteenth birthday of the child. An action to establish paternity under this act shall be available for any child for whom a paternity action was brought and dismissed because of the application of a statute of limitations of less than eighteen (18) years.

3. If paternity has been legally determined pursuant to Section 70 of this title, or judicially or administratively determined, an action to enforce this obligation of support may be brought within the time periods specified by paragraph 7 of Section 95 of Title 12 of the Oklahoma Statutes.

4. The father's obligation to support is terminated if the child is adopted.

5. The court may order the payments made to the mother or custodian or guardian of the child, or to some other person, corporation or agency to administer under the supervision of the court.

C. 1. An individual who has been legally determined to be the father of a child pursuant to Section 70 of this title, or an individual who has been judicially or administratively determined to be the father of a child shall be ordered to pay all or a portion of the costs of the birth and the reasonable expenses of providing for ~~said the child or the amount of public assistance paid prior to the determination of paternity,~~ provided that liability for support provided before the determination of paternity shall be imposed for five (5) years preceding the filing of the action.

2. Copies of bills for pregnancy, child birth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of

amounts incurred for such services or for genetic testing on behalf of the child.

D. The amount of child support and other support including amounts provided for in subsection C of this section shall be ordered and reviewed in accordance with the child support guidelines provided in Section 118 of Title 43 of the Oklahoma Statutes.

E. 1. When a civil or administrative action is filed to determine paternity of a minor child, an interested party may request the court to enter a temporary order for support of the child pending a final determination of paternity. The application for temporary support shall set forth facts supporting the application and shall be verified by the party or entity seeking the order. The application and notice of hearing shall be served as in other civil cases.

2. After service of the application and opportunity for hearing, the court shall enter a temporary order for support if the court finds there is clear and convincing evidence of paternity, including, but not limited to:

- a. a genetic test which establishes a rebuttable or conclusive presumption of paternity pursuant to Section 504 of Title 10 of the Oklahoma Statutes,
- b. a notarized written statement acknowledging paternity of the child executed by the putative father,
- c. a presumption of paternity pursuant to Section 2 of this title, or
- d. other evidence which establishes a high probability of paternity.

3. Temporary orders for support shall be established in accordance with the child support guidelines pursuant to Section 118 of Title 43 of the Oklahoma Statutes. A temporary support order terminates when a final judgment is entered which establishes support or when the action is dismissed. A temporary support order

shall not be retroactively modified, but it may be modified prospectively before final judgment upon motion of an interested party and a showing of facts supporting a modification.

SECTION 3. AMENDATORY 12 O.S. 1991, Section 1171.3, as last amended by Section 7, Chapter 402, O.S.L. 1997 (12 O.S. Supp. 1997, 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~~ the person's legal representative may initiate income assignment proceedings by filing with the court 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. The amount of support ~~monies~~ owed, if any;
2. 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 at the hearing the obligor may contest the allegations in the notice only with regards to mistake of identity, or to the existence or the amount of support ~~monies~~ owed; and
4. That the assignment shall remain in effect for as long as current ~~child~~ support is due or ~~child~~ support arrearages remain unpaid and that any payment will not prevent an income assignment from taking effect.

B. 1. 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 of current or delinquent ~~child~~ support, 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 or other income of the obligor~~+~~.

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~~+~~.

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~~.

4. 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. 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 income assignment to the payor to effectuate the assignment pursuant to subsection E of this section.

D. If the obligor fails to appear at the hearing, the court shall enter an order granting judgment for the amount of any arrearage~~, if any~~, establishing a judgment payment plan, if ~~any~~ appropriate, 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 income assignment to the payor pursuant to subsection E of this section to effectuate the assignment.

E. 1. The notice of income assignment required pursuant to subsections B, C, and D of this section shall be sent by the applicant to the payor. 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 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 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,

- e. 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 the payor shall send written notice to the court and to the 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,
- f. that, if the payor is the obligor's employer, the payor shall notify the person entitled to the support payment, and the court within ten (10) days of 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,
- g. that, if the payor has no income due or to be due to the obligor in ~~his~~ the payor's 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~~ the 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, and

h. that the payor is liable for any amount up to the accumulated amount that should have been withheld and paid, and may be fined up to Two Hundred Dollars (\$200.00) for each failure to make the required deductions if the payor:

(i) fails to withhold or pay the support in accordance with the provisions of the assignment, or

(ii) fails to notify the person entitled to support and the court as required.

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

5. The assignment shall remain effective 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~~ the obligor for all income, 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 applicant shall send a new notice of income assignment pursuant to subsection E of this section. Income assignment proceedings shall be available to collect day care and health expense arrearages as well as support alimony payments; provided, child support shall be paid prior to any alimony payments.

G. Any existing support order or income assignment which is brought before the court shall be modified by ~~such~~ the 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~~ these proceedings is, at the option of the obligee:

1. In the county in ~~Oklahoma~~ this state in which the support order was entered;

2. In the county in ~~Oklahoma~~ this state in which the obligee resides; or

3. In the county in Oklahoma in which the obligor resides or receives income.

J. 1. In all child support cases 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, all orders for current support are subject to immediate income assignment without any need for a hearing by the district or administrative court.

2. 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 as provided under Section 237 of Title 56 of the Oklahoma Statutes, the court shall order the income of any parent ordered to pay child support to be subject to immediate income assignment regardless of whether child 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.

SECTION 4. AMENDATORY Section 1, Chapter 27, O.S.L. 1994 (36 O.S. Supp. 1997, Section 6058A), is amended to read as follows:

Section 6058A. A. Notwithstanding any other provision of law, an insurer shall not deny enrollment of a child under the health plan of the child's parent on the grounds that:

1. The child was born out of wedlock;

2. The child is not claimed as a dependent on the parent's federal income tax return; or

3. The child does not reside with the parent or in the insurer's service area.

B. Where a child has health coverage through an insurer of a noncustodial parent the insurer shall:

1. ~~Provide such~~ Upon request, provide complete information to the custodial ~~parent as may be~~ person, the designated agency administering the State Medicaid Program, the state agency administering the provisions of 42 U.S.C., Sections 5 through 669, or the Child Support Enforcement Program, regarding any insurance benefits to which the child is entitled, and any forms, publications, or documents necessary for the child to obtain to apply for or to utilize the benefits available through that coverage;

2. Permit the custodial ~~parent~~ person, the designated agency administering the State Medicaid Program, or the provider with ~~the custodial parent's~~ approval, to submit claims for covered services without the approval of the noncustodial parent; and

3. Make payments on claims submitted in accordance with paragraph 2 of this subsection directly to the custodial ~~parent~~ person, the provider, or the designated agency administering the State Medicaid Program.

C. Where a parent is required by a court or administrative order to provide health coverage for a child, and the parent is eligible for family health coverage, the insurer shall be required:

1. To permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

2. If the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage and deduct the cost of the coverage from the employee's wages, upon application of the ~~child's other parent~~ custodial person, the designated agency administering the State Medicaid Program, or the state agency administering the provisions of 42 U.S.C., Sections 5 to 669, the Child Support Enforcement Program; and

3. Not to disenroll, or eliminate coverage ~~of,~~ for the child unless the insurer is provided satisfactory written evidence that:

- a. the court or administrative order is no longer in effect, or
- b. the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of disenrollment.

D. An insurer may not impose requirements on a state agency, which has been assigned the rights of an individual eligible for medical assistance under Medicaid and covered for health benefits from the insurer, that are different from requirements applicable to an agent or assignee of any other individual ~~so~~ covered.

E. As used in this section, "insurer" includes a licensed insurance company, not-for-profit hospital service or medical indemnity corporation, a fraternal benefit society, a health maintenance organization, a prepaid plan, a preferred provider organization, a multiple employer welfare arrangement, a self-insured, the State and Education Employees Group Insurance Board, or any other entity providing a plan of health insurance or health benefits in this state.

SECTION 5. AMENDATORY 43 O.S. 1991, Section 112, as last amended by Section 10, Chapter 402, O.S.L. 1997 (43 O.S. Supp. 1997, 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~~ the 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~~ other 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 both parents and the child shall be included in all child support orders.

B. In any action ~~if~~ in which 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~~ which assures the frequent and continuing contact of the child with both parents. ~~To this effect,~~  
~~in making an order for~~ When awarding custody to either parent, the court:

- a. ~~may~~ shall 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~~ the parent plans to change the permanent residence of the child, and
- b. the noncustodial parent is to notify the custodial parent if ~~such~~ the 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~~ the 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~~ any arrearages of child support, ~~if any~~.

SECTION 6. AMENDATORY Section 15, Chapter 356, O.S.L. 1994 (43 O.S. Supp. 1997, Section 118.2), is amended to read as follows:

Section 118.2 Where a parent is required by a court or administrative order to provide health coverage which is available through an employer doing business in this state, the employer is required:

1. To permit the parent to enroll under family coverage any child who is otherwise eligible for coverage without regard to any enrollment season restrictions;

2. If the parent is enrolled but fails to make application to obtain coverage of the child, to enroll the child under family coverage and to deduct the cost of the coverage from the employee's wages, upon application by the child's ~~other parent~~ custodial person, by the state agency administering the Medicaid program or the state agency administering the child support program under Title IV-D of the Social Security Act;

3. Not to disenroll or eliminate coverage of ~~any such~~ a child unless the employer is provided satisfactory written evidence that:

- a. the court order is no longer in effect,
- b. the child is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment, or
- c. the employer has eliminated family health coverage for all of its employees;

4. ~~To~~ Upon request, to provide complete information regarding available insurance to the custodial parent person, the state agency administering the Medicaid program or the state agency administering the child support program under Title IV-D of the Social Security Act regarding any insurance benefits to which the child is entitled, and any forms, publications, or documents necessary to apply for or to utilize the benefits;

5. Permit the custodial person, the designated agency administering the State Medicaid Program, or the provider with approval, to submit claims for covered services without the approval of the noncustodial parent; and

6. Make payments on claims submitted in accordance with paragraph 5 of this subsection directly to the custodial person, the designated agency administering the State Medicaid Program, or the provider.

SECTION 7. AMENDATORY 43 O.S. 1991, Section 135, as last amended by Section 15, Chapter 402, O.S.L. 1997 (43 O.S. Supp. 1997, 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~~ the support payments.

B. Past due amounts of child support shall become a lien upon the real and personal property of the person ordered to make ~~such~~ the payments at the time they become past due; provided, that the payments are to be made through the state central payment registry. Past due child support which became due prior to the implementation of the central payment registry shall also be a lien upon real and personal property, if the obligor has been given notice and opportunity to contest the amount past due.

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 amount reflected in the official records of that agency shall constitute the amount of the 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. A judgment providing for the payment of an arrearage of child support or pursuant to which a past due amount has accrued shall become a lien upon benefits received from a workers' compensation claim of the person ordered to pay the support upon 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.

E. The provisions of this section shall be available to an agency of another state responsible for implementing the child support enforcement program set forth in Title IV, Part D, of the Social Security Act seeking to enforce a judgment for child support.

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

~~G.~~ H. 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~~ the liens.

SECTION 8. AMENDATORY 43 O.S. 1991, Section 137, as last amended by Section 3, Chapter 233, O.S.L. 1996 (43 O.S. Supp. 1997, Section 137), is amended to read as follows:

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

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

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

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

~~C.~~ A child support judgment shall not become dormant for any purpose, except that it shall cease to be a lien upon real property five (5) years from the date it is filed of record with the county clerk in the county where the property is located, unless execution is issued and filed within five (5) years from the date the judgment is determined or last execution on the judgment is issued as required by law.

1. Except as otherwise provided by court order, a judgment for past due child support shall be enforceable until paid in full.

2. An order that provides for payment of child support, if willfully disobeyed, may be enforced by indirect civil contempt proceedings, notwithstanding that the support payment is a judgment on and after the date it becomes past due. ~~Amounts~~ After the implementation of the Centralized Support Registry, any amounts determined to be past due ~~in an administrative proceeding~~ by the Department of Human Services may subsequently be enforced by indirect civil contempt proceedings.

~~D.~~ C. An arrearage payment schedule set by a court or administrative order shall not exceed three (3) years, unless imposition of ~~such~~ a payment schedule would be unjust, inequitable, unreasonable, or inappropriate under the circumstances, or not in the best interests of the child or children involved. When making this determination, reasonable support obligations of either parent

for other children in the custody of the parent may be considered. If an arrearage payment schedule that exceeds three (3) years is set, specific findings of fact supporting the action shall be made.

SECTION 9. AMENDATORY Section 4, Chapter 279, O.S.L. 1992, as amended by Section 18, Chapter 402, O.S.L. 1997 (43 O.S. Supp. 1997, 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 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~~ thirty (30) days of changes in ~~said~~ the address. Orders issued by the district court shall direct the parties to provide information regarding addresses to the Registry. The Registry ~~will~~ shall 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~~ regular mail with a certificate of mailing service with proof of mailing from the United States Post Office 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 10. AMENDATORY 56 O.S. 1991, Section 237, as last amended by Section 19, Chapter 402, O.S.L. 1997 (56 O.S. Supp. 1997, 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~~ services, parent location services, and paternity determination services to enable ~~it to participate~~ participation 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~~ Require 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, persons, sole proprietorships, corporations, utilities, partnerships, associations, organizations, and other legal entities doing business in this state, who or which shall to 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 to assist in locating individuals and in establishing and enforcing court orders.~~

C. 1. An applicant for or recipient of 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~~ in accordance with federal regulations.

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~~ another custodian, without obtaining a modification of the order to change legal custody or to redirect the support to the new custodian, 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 new custodian or the Department if an assignment of support rights has been made.~~ The ~~assignment and~~ transfer of the obligation shall terminate when the ~~caretaker relative~~ new custodian no longer has physical custody of the child, except for the amount of unpaid support still owing to the Department pursuant to ~~the~~ an assignment.

3. ~~If an assignment has been made pursuant to this section or a proper application made by an individual not receiving Temporary Assistance for Needy Families~~ In all cases in which support services are being provided under the state child support plan as provided in this section, support payments shall be made by the obligor to the Department or its designee. If a court has ordered support payments to be made to the recipient or the applicant, the Department may

send a notice of ~~such~~ the assignment or application 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,
- d. a statement that all payments so ordered shall be made to the Department, and
- e. a statement that a notice of income assignment will be sent to the obligor's employer or other payor of income.

4. ~~The~~ A 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 the redirection the obligor does not make payments to the Department as provided in the notice, 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.

5. Effective October 1, 1998, or upon implementation of the Centralized Support Registry, whichever occurs first, the notice provided for in paragraph 3 of this subsection shall be replaced by the notice provided for in Section 11 of this act.

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 Temporary Assistance for Needy Families, 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:~~

1. Requiring the obligor to provide ~~medical~~ health insurance for the dependent children whenever it is available through employment or other group plan regardless of whether the obligor has insurance coverage available at that time ~~and/or~~ there has been a change of circumstances, ~~establish;~~

2. Establishing paternity;

3. Requiring medical support ~~and,~~ child support, ~~enforce or~~ other support;

4. Enforcing orders for paternity, medical support, child support, or other support, ~~require;~~

5. Requiring that the obligor keep the Division informed of the name and address of the current employer of the obligor and ~~access~~ ~~to~~ of any health insurance ~~and~~ or other insurance policy information of the obligor within ten (10) days of any change, ~~and make;~~

6. Making collection and distribution of child support monies, ~~assist;~~ and

7. Assisting 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 and their assets, 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 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 Temporary Assistance for Needy Families programs. Information may be released to public officials under rules adopted by the Department, consistent with federal rules or regulations.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 237A of Title 56, unless there is created a duplication in numbering, reads as follows:

A. Effective October 1, 1998, or upon implementation of the Centralized Support Registry provided for in Section 413 of Title 43 of the Oklahoma Statutes, hereafter referred to as the Registry, whichever occurs first, in all cases being enforced by the Department of Human Services pursuant to the state child support plan, the Department shall serve a notice upon the obligor no less than once every twelve (12) months informing the obligor of the following:

1. The style and case number of the support order or orders being enforced by the Department;

2. The amount of the current support obligation and the total amount of alleged past due support pursuant to the support order or orders;

3. All payments for current support and payments for past due support owed to the Department or to the obligee must be paid to the Registry at the address specified in the notice, and thereafter, any payments made other than to the Registry shall not be credited to the amount owed;

4. The obligor's street address and mailing address as stated in the notice shall be the obligor's address or addresses of record on file in the Registry; and thereafter, the obligor must inform the Registry in writing thirty (30) days of any change;

5. If the information contained in the notice is incorrect or incomplete concerning the name and address of the obligor's current employer or other payors of income, dependent health insurance information, or other information requested by the Department, the obligor shall inform the Registry in writing of any changes or additions to the information within thirty (30) days of service of the notice; and thereafter, within thirty (30) days of any change;

6. An income assignment is in effect and the amounts specified in the notice shall be withheld from the obligor's income for current support and past due support;

7. The income assignment will be served upon all current and subsequent payors of income without further notice to the obligor;

8. The income assignment will remain in effect regardless of whether any past due amounts are owed, for as long as the order upon which it is based, or for as long as past due support is owed, whichever is longer, and payment of any amount will not prevent the income assignment from taking effect;

9. If there is no order for payment of the past due amount, when any amount of support becomes thirty (30) days past due the obligor's payor of income will be notified to withhold an amount equal to twenty-five percent (25%) of the current support obligation, and that amount shall continue to be withheld until the past due support is paid in full, or until further order;

10. If the obligor has failed to comply with an order to provide health insurance, the obligor's employer will be required to enroll the obligor's minor children who are the subject of the referenced order in any dependent health insurance plan offered by the employer to the obligor, and to deduct the amount of the premium from the obligor's income;

11. A list of all actions and remedies the Department may take to enforce the order and to collect past due support;

12. The obligor will be given this notice no less than once every twelve (12) months, and after initial service of the notice as provided in subsection B of this section, subsequent notices will be mailed by regular mail to the last address for the obligor on file in the Registry;

13. The obligor may request an administrative review on a form attached to the notice within twenty (20) days of the date the notice is served upon the obligor which will be granted only on the following grounds:

- a. a mistake of identity,
- b. the existence or the amount of current support or past due support is incorrect, or
- c. the amount of periodic payment on the past due amount to be withheld from the obligor's income will create an undue hardship upon the obligor;

14. The obligor has been given notice and opportunity to contest the past due amount stated in the notice and the obligor will not be entitled to another opportunity to contest that amount;

15. The notice will have the same effect as a court order and will be enforceable as a court order.

B. The notice shall be filed, at the option of the Department, with the clerk of the district court in the county of residence of the custodian of the child, in the county of residence of the

obligor, or the county of the underlying support order or any other county in which the obligor has real or personal property.

C. The notice provided for in this section shall be sent to the obligor and to the custodian of the child no less than once every twelve (12) months. The initial notice shall be served by the Department upon the obligor and the custodian as provided in Section 2004 of Title 12 of the Oklahoma Statutes. Thereafter, the Department shall serve the obligor and the custodian subsequent notices by regular mail with a certificate of mailing from the United States Postal Service. Subsequent notices shall be mailed to the last address for the obligor and the custodian on file with the Registry.

D. An obligor may request an administrative review pursuant to this section by delivering a request to the Department in writing or on the form provided within twenty (20) days of the date the notice is served upon the obligor. If the notice is a subsequent notice as provided in subsection B of this section, the date of service shall be the date the notice is mailed to the obligor, and the notice shall state the date it is being mailed.

E. 1. Upon receipt of a timely request for an administrative review, the Department shall schedule a review to be held within thirty (30) days of receipt of the request. The obligor shall be served with notice of the administrative review as provided in subsection B of Section 2005 of Title 12 of the Oklahoma Statutes. The review shall be conducted by an employee of the Department who will attempt to resolve all disputed issues without the necessity of a hearing. If all issues are resolved at the review, the obligor shall sign an agreed administrative order which shall be filed, at the option of the Department, with the clerk of the district court in the county of residence of the custodian of the child, in the county of residence of the obligor, the county of the underlying

support order, or any other county in which the obligor has real or personal property.

2. If all disputed issues are not resolved at the administrative review, the Department will set the matter for an administrative hearing. The obligor shall be served with notice of the hearing as provided in subsection B of Section 2005 of Title 12 of the Oklahoma Statutes. The administrative court shall hear the matter and shall enter an order determining the contested issues and affirming the other provisions of the notice. The administrative order shall be filed, at the option of the Department, with the clerk of the district court in the county of residence of the custodian of the child, in the county of residence of the obligor, the county of the underlying support order, or any other county in which the obligor has real or personal property.

3. If the obligor fails to request a timely administrative review, or fails to appear for a review or an administrative hearing, the obligor may no longer contest the contents of the notice, and thereafter the notice shall have the same legal effect as a court order and be enforceable as a court order. The notice with proof of service upon the obligor and the custodian of the child shall be filed, at the option of the Department, with the clerk of the district court in the county of residence of the custodian of the child, the county of residence of the obligor, or the county of the underlying support order or any other county in which the obligor has real or personal property.

4. The administrative court may order an obligor to pay all costs involved in proceedings under this subsection.

5. A final administrative order entered pursuant to this section shall be served upon the obligor in accordance with subsection B of Section 2005 of Title 12 of the Oklahoma Statutes.

6. A final administrative order entered pursuant to this section may be appealed pursuant to Section 240.3 of Title 56 of the Oklahoma Statutes.

SECTION 12. AMENDATORY 56 O.S. 1991, Section 237.7, as last amended by Section 20, Chapter 402, O.S.L. 1997 (56 O.S. Supp. 1997, Section 237.7), is amended to read as follows:

Section 237.7 For the purposes of Sections 238 through 240.23 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 Temporary Assistance for Needy Families, hereinafter referred to as "TANF", and to individuals not receiving 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 appropriate cases or as otherwise provided by law, 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;

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;

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

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

7. "Gross income" ~~or~~ or "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 TANF, 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;

8. "Earnings" means amounts paid to a person as an employee, including wages and salary;

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

~~9.~~ 10. "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;

~~10.~~ 11. "Obligee" or "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;

~~11.~~ 12. "Payor" means any person or entity paying monies, income, or earnings to an obligor. In the case of a self-employed person, the "payor" and "obligor" may be the same person;

~~12.~~ 13. "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;

~~13.~~ 14. "Income assignment" is an ~~order which assigns~~ assignment of 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 child support orders wherein child support is being enforced pursuant to the state plan, the income of any obligor required by court or administrative order to pay support shall be subject to immediate income assignments regardless of whether support payments by such obligor are in arrears. 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;

~~14.~~ 15. "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;

~~15.~~ 16. "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;

~~16.~~ 17. "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;

~~17.~~ 18. "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 license or permit including, but not limited to, a hunting and fishing license or other authorization issued pursuant to the Oklahoma Wildlife Conservation Code, ~~Section 1-101 et seq. of Title 29 of the Oklahoma Statutes,~~ and certificates of Title for vessels

and motors and other licenses or registrations issued pursuant to the Oklahoma Vessel and Motor Registration Act, ~~Section 4001 et seq. of Title 63 of the Oklahoma Statutes,~~ or a driver license or other permit issued pursuant to Title 47 of the Oklahoma Statutes;

~~18.~~ 19. "Commission" means the Commission for Human Services; and

~~19.~~ 20. "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; and

21. "Support" means all payments or other obligations due and owing to the obligee or person entitled by the obligor pursuant to a support order, and may include, but is not limited to, child support, medical insurance or other health care premiums, child care obligations, support alimony payments, and other obligations as specified in Section 118 of Title 43 of the Oklahoma Statutes.

SECTION 13. AMENDATORY 56 O.S. 1991, Section 238.6, as amended by Section 20, Chapter 356, O.S.L. 1994 (56 O.S. Supp. 1997, Section 238.6), is amended to read as follows:

Section 238.6 A. ~~The administrative procedures provided for by the provisions of Sections 238.1 and 238.4 of this title and Section 5 of this act shall be available to determine the support debt accrued and accruing for children receiving public assistance in this state or in other states where said sister state has requested the assistance of the Department of Human Services in establishing and enforcing the support debt created through payment of public assistance under the program of Aid to Families with Dependent Children, pursuant to the provisions of Title IV-D of the Social Security Act, as amended.~~

~~B. Administrative procedures shall also be available to determine the amount of periodic support payments due from a debtor to the custodian or guardian of minor children not receiving Aid to Families with Dependent Children who has made proper application for services in establishing and enforcing the child support obligation of a debtor, whether said application was made in this state or in another state.~~

~~C. Said administrative procedures shall also be available to implement those provisions of subsection J of Section 1171.3 of Title 12 of the Oklahoma Statutes, with regard to immediate income withholding. Notice of immediate income withholding shall be sent by the Department in the same manner as prescribed in subsection E of Section 240.2 of this title.~~

~~D. Administrative procedures shall be available to any party specified in paragraph 2 of subsection C of Section 237 of Title 56 of the Oklahoma Statutes who has actual custody of a child~~  
Department may utilize any of the administrative procedures set forth in this title to establish, modify, or enforce a support order in all cases in which child support services are being provided pursuant to the state child support plan.

SECTION 14. AMENDATORY 56 O.S. 1991, Section 240.1, as last amended by Section 8, Chapter 272, O.S.L. 1997 (56 O.S. Supp. 1997, Section 240.1), is amended to read as follows:

Section 240.1 A. 1. In cases ~~where~~ in which child support services are being provided by the Child Support Enforcement Division of the Department of Human Services, the Division ~~shall~~ may:

- a. initiate enforcement proceedings to:
  - (1) obtain a judgment for arrearages,
  - (2) effectuate an income assignment,
  - (3) receive current support and judgment payments,and

(4) review and modify support orders pursuant to child support guidelines in Section 118 of Title 43 of the Oklahoma Statutes, and

b. initiate any other legal proceeding ~~in the district or administrative court~~ to implement the establishment and collection of support and other court-ordered requirements of support from an obligor including but not limited to medical, insurance premiums and child care costs.

2. A reasonable fee and costs may be assessed for providing child support enforcement services pursuant to rules promulgated by the Department. The 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 applicant 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:

1. Spousal support or the support of a child or both for an applicant or any person who is the recipient of benefits under the Temporary Assistance for Needy Families (TANF) program; and

2. Any debt due and owing to the person entitled to receive enforcement support services by the Department or to this state by a natural or adoptive parent or other person who is or was responsible for the support of a child pursuant to Section 238 of this title, or found to be responsible for the support of a child pursuant to Sections 238.1 through 238.6 of this title.

C. 1. Upon application by an obligor who requests support enforcement services from the Department, 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.

2. A reasonable fee and costs may be assessed for the services provided for in this subsection pursuant to rules promulgated by the Department. Such fee, not to exceed Twenty-five Dollars (\$25.00), shall be paid by the applicant.

D. The Director has the authority to enter orders in situations as defined in Section 240.23 of this title, without the necessity of obtaining an additional signature of a district or administrative judge.

E. The Division is authorized to refer any judgment for child support of more than Five Thousand Dollars (\$5,000.00) to the Secretary of Health and Human Services for denial of passport.

SECTION 15. AMENDATORY 56 O.S. 1991, Section 240.2, as last amended by Section 23, Chapter 402, O.S.L. 1997 (56 O.S. Supp. 1997, 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.

1. ~~Except as provided in Section 33 of this act, the~~ The Division ~~shall~~ may notify the obligor of the intention to initiate enforcement proceedings by a notice. If an income assignment is not in place for current support, the Division shall immediately execute or issue a withholding order to any payor of income to the obligor. The Division shall also give notice of enforcement proceedings pursuant to this subsection 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 for current support has commenced if a potential payor of income was known,

- c. other enforcement actions that the Division may take to collect support monies owed,
  - d. 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,
  - e. 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
  - f. 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~~ fifteenth 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 of current or delinquent child support, 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, as provided in Section 114 of Title 43 of the Oklahoma Statutes~~ 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, at the option of the Division, 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~~ in the county of the underlying support order, or any other county in which the obligor has real or personal property. 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~~ served upon the obligor by the District Office ~~at the last-known address of the obligor by certified or registered mail, with return receipt requested~~ in accordance with subsection B of Section 2005 of Title 12 of the Oklahoma Statutes.

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 in 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~~ and the provisions stated in the notice. The ~~notice payor~~ shall ~~specify~~ be notified of the following:

- a. the effective date of the assignment. The assignment shall take effect on the next payment of ~~earnings~~ income to the obligor after the payor receives notice thereof and the amount withheld shall be sent to the Division within ~~ten (10)~~ seven (7) 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,
- b. the amount to be withheld from the obligor's ~~earnings~~ income each pay period for support monies. The amount withheld by the payor from the obligor's earnings shall not exceed the limits on the percentage of an obligor's ~~income~~ earnings which may be assigned for support pursuant to Section 1171.2 of Title 12 of the Oklahoma Statutes,
- c. the income assignment is binding upon the payor until modified by order of the district or administrative court,

- 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,
- 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,
- f. if the amount of support due under the assignments exceeds the maximum amount authorized to be withheld from earnings 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,
- 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~~ is no longer employed by, being paid by, or providing services to the payor, and shall provide the Division with the obligor's last-known address and the name of the obligor's new employer or payor of income, if known,
- h. if the payor has no current or future income due to the obligor in his or her possession or control, or if the obligor ~~has terminated employment~~ is no longer employed by, being paid by, or providing services to the payor 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,

- i. the payor may also be fined not more than Two Hundred Dollars (\$200.00) for each failure to make the required deductions, 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~~ income 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~~ income.

4. The payor may deduct from any ~~earnings~~ income 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~~ The payor shall verify ~~employment of the obligor~~ the obligor's address, employment, earnings, income, benefits, and dependent health insurance information upon the request of the Division.

8. The payor may not discipline, suspend, ~~or discharge,~~ or refuse to promote 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 income, wages, and employment benefits lost by the obligor from the period of unlawful discipline, suspension, ~~or discharge,~~ or refusal to promote to the ~~period of reinstatement~~ or promotion.

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;

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 or its designee, and in such manner as provided by the ~~administrative order~~ or the notice.

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~~ current support 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~~ the 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 Temporary Assistance for Needy Families within ~~ten (10) working days after receipt of such monies~~ the time limit required by federal regulation.

SECTION 16. AMENDATORY Section 9, Chapter 356, O.S.L. 1994, as last amended by Section 37, Chapter 402, O.S.L. 1997 (63 O.S. Supp. 1997, 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 and an oral, audio, or video presentation 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,
- 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, along with an oral, audio, or video presentation, 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 17. REPEALER 12 O.S. 1991, Sections 1171.2, as amended by Section 2, Chapter 272, O.S.L. 1997 and 1171.3, as last amended by Section 3, Chapter 272, O.S.L. 1997 (12 O.S. Supp. 1997, Sections 1171.2 and 1171.3), are hereby repealed.

SECTION 18. REPEALER 43 O.S. 1991, Section 112, as last amended by Section 10, Chapter 403, O.S.L. 1997 (43 O.S. Supp. 1997, Section 112), is hereby repealed.

SECTION 19. REPEALER 43 O.S. 1991, Section 118, as last amended by Section 13, Chapter 402, O.S.L. 1997 (43 O.S. Supp. 1997, Section 118), is hereby repealed.

SECTION 20. REPEALER 56 O.S. 1991, Section 240.1, as last amended by Section 22, Chapter 402, O.S.L. 1997 (56 O.S. Supp. 1997, Section 240.1), is hereby repealed.

SECTION 21. This act shall become effective November 1, 1998.

46-2-2679 KSM (<time=system>)