ENGROSSED HOUSE
BILL NO. 1160

By: Ervin of the House

and

Cain of the Senate

An Act relating to poor persons; amending 56 O.S. 1991, Sections 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, 238.1, as amended by Section 2, Chapter 365, O.S.L. 1994, 238.4, as amended by Section 4, Chapter 365, O.S.L. 1994, 238.6, as amended by Section 20, Chapter 356, O.S.L. 1994, 238.7, 240.1, as amended by Section 6, Chapter 365, O.S.L. 1994, 240.2, as amended by Section 7, Chapter 365, O.S.L. 1994, and 240.5, as amended by Section 4, Chapter 153, O.S.L. 1992 (56 O.S. Supp. 1995, Sections 237.7, 238.1, 238.4, 238.6, 240.1, 240.2 and 240.5), which relate to child support and other support services; modifying certain terms; providing for certain fees; providing for maximum amount; providing for implementation of fee schedule; providing for payment and collection of certain reimbursements, costs, expenses and interest; requiring payment of certain costs, expenses and interest; providing for additional amount collected; providing for deposit; clarifying and updating language; providing inclusion of certain costs, expenses and interest in certain payments; modifying certain notice,

contents and requirements; requiring continuation of certain periodic payments; requiring the Department of Human Services to collect and deposit certain payments; requiring implementation of certain tracking and accounting system; requiring certain reports; providing for contents; directing the furnishing of certain financial information; providing for effectiveness of certain income assignments; specifying date of implementation; prohibiting certain waivers and modifications; providing exceptions of the schedule of costs for support enforcement services; requiring sliding scale basis; requiring certain information; providing for compliance with Administrative Procedures Act; requiring Department of Human Services to make application for and obtain any required waivers; requiring coordination; and declaring an emergency.

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

SECTION 1. 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~~ 237.7 through 240.14 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 to 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. "Office of Administrative Hearings: Child Support (Legal Division, Department of Human Services, State of Oklahoma)", hereinafter referred to as "OAH", conducts child support enforcement administrative hearings. All hearings are conducted by administrative law judges assigned to OAH;

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

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

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

6. "Gross income", "income" or "earnings" means income from any source and includes but is not limited to income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, rent, interest income, trust income, annuities, compensation as an independent contractor, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, prizes, any form of periodic payment to an individual regardless of source, and any other payments made by any person, private entity, federal or state government, any unit of

local government, school district, or any entity created by law. Income specifically excluded are actual child support received for children not before the court and benefits received from means-tested public assistance programs, including but not limited to ~~AFDC~~ 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;

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

8. "Obligor" means the person who is required to make payments under an order for support and/or the natural, legal, or adoptive parents who are responsible for the support of such child or children;

9. "Person entitled" means:

a. a person to whom a support debt ~~or~~, support obligation ~~is~~ and other court-approved fees, costs and expenses are 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 and other court-ordered fees, reimbursements, costs and expenses or that is providing support enforcement services, or

c. a person designated in a support order or as otherwise specified by the court;

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

11. "Support order" means an order for the payment of the support debt, interest, obligation and reimbursement owed to the person entitled and/or to the Department for fees, costs and other expenses for support enforcement services provided by the Department issued by a district or administrative court of this state or by any court or agency of another state;

12. "Income assignment" is a provision of a support order which directs the obligor to assign a portion of the monies, income, or periodic earnings due and owing to the obligor to the person entitled to the support or to another person or entity designated by the support order or assignment for payment of support, the support debt, ~~and/or~~, arrearages and interest, obligation and reimbursement owed to the person entitled, and/or to the Department for fees, costs and other expenses for support enforcement services provided by the Department. 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 and interest, obligation and reimbursement owed to the person entitled, and/or to the Department for fees, costs and other expenses for support enforcement services provided by the Department 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, interest, obligation and reimbursement owed to the person entitled, and/or to the Department for fees, costs and other expenses for support enforcement services provided by the Department, or a review or modification of a support order pursuant to Section 118.1 of Title 43 of the Oklahoma Statutes;

13. "Voluntary acknowledgment" means a written acknowledgment executed by the obligor wherein the obligor acknowledges paternity, support liability, a support debt or arrearage amount, and agrees to a judgment and an immediate income assignment to pay monthly support and payments on the support debt or arrearage judgments and interest, obligation and reimbursement owed to the person entitled, and/or to the Department for fees, costs and other expenses for support enforcement services provided by the Department;

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

15. "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. "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 a driver license or other permit issued pursuant to Title 47 of the Oklahoma Statutes;

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

18. "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, interest, obligation and reimbursement owed to the person entitled, and/or to the Department for fees, costs and other expenses for support enforcement services provided by the Department and, if applicable, current and future support.

SECTION 2. AMENDATORY 56 O.S. 1991, Section 238.1, as amended by Section 2, Chapter 365, O.S.L. 1994 (56 O.S. Supp. 1996, Section 238.1), is amended to read as follows:

Section 238.1 A. For the purposes of establishing the amount of the debt which has accrued as provided for in Section 238 of this title, or to establish an obligation for support in the absence of a court order of support, the Child Support Enforcement Division of the Department of Human Services may issue a notice of a support debt accrued or accruing based upon payment of public assistance to or for the benefit of any dependent child or if no public assistance is paid, the amount of monthly child support required by the custodian of the minor child as determined by the Division plus interest, obligation and reimbursement owed to the person entitled,

and/or to the Department for fees, costs and other expenses for child support enforcement services provided by the Department. The notice of debt shall be served upon the obligor in the same manner prescribed for the service of summons in a civil action. The notice of debt shall include:

1. A statement of the support debt accrued, if any, based on payment of public assistance to or for the benefit of any dependent child and support debt accruing, if any, based on the payment of public assistance for the benefit of the child or when public assistance has not been paid, the reasonable expenses of providing for the child plus interest, obligation and reimbursement owed to the person entitled, and/or to the Department of Human Services for fees, costs and other expenses for child support enforcement services provided by the Department;

2. A statement of the amount of monthly public assistance payment or if no payment is made, the amount of monthly child support required by the custodian of the minor child as determined by the Child Support Guidelines, Section 118 of Title 43 of the Oklahoma Statutes plus interest, obligation and reimbursement owed to the person entitled, and/or to the Department for fees, costs and other expenses for child support enforcement services provided by the Department;

3. A statement that the obligor shall be required to maintain health insurance for the child whenever the obligor has such insurance available through his employment or other group insurance plan;

4. A statement that 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;

5. A statement containing the name of the child and the name of the custodian of the child;

6. A statement that the obligor may object to all or any part of the notice of support debt and, within twenty (20) days of the date of service, may request 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 support requested in the notice and for any or all of the debt accrued or accruing, and the amount to be paid thereon; and

7. A statement that if no hearing is requested on or before twenty (20) days from the date of the service or if the obligor requests a hearing but fails to appear at the hearing, the monthly support requested ~~and~~, the support debt and interest, obligation and reimbursement owed to the person entitled, and/or to the Department for fees, costs and other expenses for child support enforcement services provided by the Department shall be made an administrative order 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 in the same manner as an order of the district court.

B. The Division may accept voluntary acknowledgments of support liability and any stipulated ~~support~~ amounts. The obligor shall be informed, in the notice specified by this section, that ~~he~~ the obligor may make such voluntary acknowledgments.

SECTION 3. AMENDATORY 56 O.S. 1991, Section 238.4, as amended by Section 4, Chapter 365, O.S.L. 1994 (56 O.S. Supp. 1996, Section 238.4), is amended to read as follows:

Section 238.4 A. If requested, a hearing shall be held at the time and place given on the notice of support debt served upon the obligor or the attorney of the obligor with a duly qualified administrative law judge appointed for that purpose by the Department of Human Services. The hearing shall be held in the

county of residence of the custodial parent or guardian of the child or if the custodian resides out of state, the hearing shall be held in the county of residence of the obligor. The hearing shall be conducted according to rules promulgated by the Department. The rules shall provide to both parties the right to confront and cross-examine witnesses, to present witnesses, to be represented by an attorney or other person, and to be notified of these rights in writing. After the evidence has been presented at a hearing, the administrative law judge shall enter an order which shall be in writing and contain findings of fact and conclusions of law as to each contested issue. Each order shall include provisions requiring obligor to inform the Child Support Enforcement Division of the Department of Human Services of the name and address of the current employer, access to health insurance and other insurance policy information. The order shall be submitted to the District Office and to the obligor or the attorney of the obligor by hand delivery by the administrative law judge or by certified mail, return receipt requested, within twenty (20) days after the conclusion of the hearing.

B. If, during the hearing, the administrative law judge finds that the issues presented will require further consideration or evidence either administratively or through the district court before adjudication, the administrative law judge may enter a temporary order for child support, pending resolution of those issues during a subsequent administrative or court hearing. Such temporary order shall be enforced until superseded by a final administrative order or district court order and may be filed in the office of the court clerk.

C. 1. Within ten (10) days of receipt of the final order of the administrative law judge, the obligor or the Division shall give written notice to OAH and other parties of the intent to appeal the decision. The appeal must be filed in the district court in the

county where the District Office is located or in the county in which a district court order of support is filed within fifteen (15) days after the mailing date of said notice of intent to appeal and reviewed pursuant to the provisions of Sections 318 through 323 of Title 75 of the Oklahoma Statutes.

2. The certified transcript, exhibits, pleadings, recordings of the hearing and any written orders shall constitute the record on appeal to the district court. OAH shall prepare or direct the preparation of the official transcript by a licensed court reporter, if a transcript is requested. The party seeking a copy of the transcript of the hearing shall prepay all costs of transcription and pay a reasonable deposit or adequate indemnity prior to preparation of the transcript. If a party is financially unable to pay the transcription costs, the party shall provide OAH and the District Office with an in forma pauperis affidavit which verifies the inability to pay. If OAH determines the party is financially unable to pay transcription costs, a transcript will be provided by OAH. The transcript shall not be provided prior to full payment of all transcription costs or an order finding OAH will bear the cost of transcription.

D. If an appeal is not made by the obligor or District Office, the order of the administrative law judge shall be final, 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.

E. If the obligor requests a hearing pursuant to this section but fails to appear for the hearing after proper service, an administrative order will be entered. Such order shall include findings of facts and conclusions of law and shall 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 the 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.

F. ~~Any~~ 1. Except as otherwise provided by this subsection, any order for periodic support payments made pursuant to the provisions of this title shall be payable to the Division for as long as the Division is providing support enforcement. Thereafter, if ~~AFDC~~ TANF is not being paid, the custodian or guardian notifies the Division in writing that IV-D services are no longer requested and/or the obligor has not applied for services, current support payments shall be redirected to the custodian or guardian of the child until further order of the district or administrative court, or until the obligor is notified by the Division that the child has been recertified for receipt of public assistance, or until the child reaches the age of majority.

2. Any interest, obligation or reimbursement due and owing to the Department for fees, costs and other expenses for services incurred in the collection of support shall remain payable to the Department until paid in full or as otherwise authorized by the Department.

SECTION 4. AMENDATORY 56 O.S. 1991, Section 238.6, as amended by Section 20, Chapter 356, O.S.L. 1994 (56 O.S. Supp. 1996, 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~~ 89 of ~~this act~~ Title 10 of the Oklahoma Statutes 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 federal program of ~~Aid to Families with Dependent Children, pursuant to the provisions of Title IV-D of the Social Security Act, as amended~~ Temporary Assistance for Needy Families (TANF).

B. Administrative procedures shall also be available to determine the amount of periodic support payments due and interest, obligation and reimbursement owed to the person entitled, and/or to the Department of Human Services for fees, costs and other expenses for support collection services provided by the Department from ~~a debtor~~ an obligor to the custodian or guardian of minor children not receiving ~~Aid to Families with Dependent Children~~ TANF who has made proper application for services in establishing and enforcing the child support obligation of ~~a debtor~~ an obligor, 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~~ this title who has actual custody of a child.

SECTION 5. AMENDATORY 56 O.S. 1991, Section 238.7, is amended to read as follows:

Section 238.7 ~~A~~ A. Except as otherwise provided by this section no court shall:

1. Modify retroactively any final order of the Department of Human Services providing for the payment of child support ~~which has not been set aside on appeal by the district court shall not be~~

~~modified retroactively or~~, and/or for any interest, obligation or reimbursement owed to the person entitled;

2. Waive any payment of all or a portion of the past due amount ~~waived except by mutual agreement of the obligor and obligee or, if the child support rights have been assigned to the Department or other entity, by agreement of the Department or such entity~~; or

3. Modify retroactively or waive any final order of the Department of Human Services providing for the payment of any obligation, interest or any reimbursement owed to the Department for fees, costs and other expenses for support collection services provided by the Department.

B. The court may modify retroactively or waive any final order of the Department providing for:

1. The payment of child support and/or any fee, interest, obligation or reimbursement owed to the person entitled if:

a. the order has not been set aside on appeal by the district court, and

b. the obligor and the person entitled mutually agree to the retroactive modifications or waiver; and

2. Any fee, obligation, interest or any reimbursement owed to the Department for fees, costs and other expenses for support enforcement services provided by the Department if:

a. the order has not been set aside on appeal by the district court, and

b. the obligor and the Department mutually agree to the retroactive modification or waiver.

SECTION 6. 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. 1. In cases where child support services are being provided by the Child Support Enforcement Division of the Department of Human Services, the Division may:

a. initiate enforcement proceedings to:

(1) obtain a judgment for arrearages~~; to~~,

(2) effectuate an income assignment~~; to~~,

(3) receive current support and judgment payments~~; to~~, and

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

b. initiate any other legal proceeding in the district or administrative court to implement the collection of support from an obligor.

2. A reasonable fee ~~and costs may~~ shall be assessed for ~~the~~ providing child support enforcement services pursuant to ~~the~~ rules ~~and regulations~~ promulgated by the Department. ~~Such~~ 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~~ shall include the amount of the fee paid by the ~~person entitled to support payments~~ applicant in any judgment against the obligor.

3. a. The obligor shall reimburse the Department for all costs or other expenses incurred by the Department and any interest owed pursuant to Sections 237 through 240.21 of this title, as authorized by the Department pursuant to the terms of a settlement agreement or as otherwise provided by law in collecting any monies owed.

b. In any hearing on a notice of delinquency or other enforcement proceeding pursuant to this section, the district or administrative court shall include in any judgment against the obligor the amount of any cost

and other expenses for child support enforcement services provided by the Department, the amount of interest on the child support, and costs and expenses pursuant to the provisions of this subsection, as authorized by the Department pursuant to the terms of a settlement agreement or as otherwise provided by law in collecting any child support owed.

4. Any costs, expenses and interest collected pursuant to this subsection by the Department shall be in addition to the amount collected for current child support and delinquent child support. Any costs, expenses and interest shall be deposited in the Child Support Revenue Enhancement Fund.

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~~:

1. 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.~~ Temporary Assistance to Needy Families benefits under the TANF program; and

~~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~~ 2. Any debt due and owing to this state by ~~the~~ a natural or adoptive ~~parents or~~ parent or other person who ~~are~~ is or was 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.~~ 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, interest, and any other costs, expenses, reimbursements or payments authorized by law or any other judgment.

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

D. District or administrative court-ordered support payments, payments of suit monies and expenses or other costs incurred by the Department for support enforcement services or as otherwise provided by law shall draw interest at the rate of ten percent (10%) per year from the date the payments, expenses or other costs become delinquent. The interest shall be collected in the same manner as the payments upon which the interest accrues.

E. 1. On and after the effective date of this act, the Department shall collect and deposit in the Child Support Revenue Enhancement Fund for reimbursements, costs and other expenses for support enforcement services provided by the Department and for the interest thereon or as otherwise authorized by the Department pursuant to the terms of a settlement agreement.

2. By July 1, 1997, the Department shall have implemented a system for tracking and accounting for the collection of payments for reimbursements, costs, expenses, and interest specified by this section.

F. On and after January 1, 1999, and each January thereafter, the Department of Human Services shall submit a report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate detailing reimbursements, costs, and other expenses incurred by the Department as a result of the enforcement of support for persons not receiving Temporary Assistance to Needy Families (TANF) who have requested support enforcement services pursuant to this section. The report shall include the total amount of fees, costs, expenses, and the interest collected pursuant to

this section from persons entitled to support and from obligors for support services provided by the Department.

SECTION 7. 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 Child Support Enforcement Division of the Department of Human Services may initiate enforcement proceedings, as ~~defined~~ provided in Section 240.1 of this title.

1. 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 and the interest thereon, if any, and the amount of any obligation or reimbursement for fees owed to the applicant or for costs and expenses incurred by the Department for support enforcement services,

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~~ or the payment of any interest, fees, obligations or reimbursements owed shall 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~~ shall order an obligor to ~~pay~~ reimburse the applicant for payment of application fees and the Department for all obligations, costs and other expenses involved in enforcement proceedings ~~under~~ pursuant to this subsection ~~and~~ or as otherwise authorized by the Department pursuant to a settlement agreement. The administrative court 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. 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~~;~~,

b. the amount to be withheld from the obligor's earnings each pay period for ~~support monies~~ payment pursuant to this section. 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~~;~~,

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~~;~~ and prior to any obligation or reimbursement owed to the Department for costs and expenses incurred by the Department in collecting the payments,

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~~;~~,

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~~;~~,

h. if the payor has no current or future income due to the obligor in ~~his~~ the payor's 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~~;~~,

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 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, obligations or reimbursements owed to the applicant for the payment of fees or owed to the Department for reimbursements, costs or other expenses incurred by the Department are owed as required by the district or administrative court. Payment of any ~~support~~ monies for support, interest or reimbursement to the applicant or the Department 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~~ shall 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~~ obligor, 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 or payment of debts or other obligations.

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~~ person entitled to support:

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

2. In the county in ~~Oklahoma~~ this state in which the ~~obligee~~ person entitled to support resides; or

3. In the county in ~~Oklahoma~~ this state 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~~ benefits pursuant to the Temporary Assistance for Needy Families program within ten (10) working days after receipt of such monies.

SECTION 8. AMENDATORY 56 O.S. 1991, Section 240.5, as amended by Section 4, Chapter 153, O.S.L. 1992 (56 O.S. Supp. 1996, Section 240.5), is amended to read as follows:

Section 240.5 A. Those persons not receiving aid to families with dependent children shall be given equal access to the services provided by the Department of Human Services through its statewide plan for child support authorized by the Federal Social Security Act, 42 U.S.C., Section 301 et seq.

B. ~~The~~ 1. By January 1, 1998, the Department ~~is authorized to study, develop and propose to the Legislature~~ shall have implemented a ~~fee~~ schedule for ~~child~~ support enforcement services provided through the Child Support Enforcement Division of the Department. The schedule of costs shall be on a sliding scale basis. Any such schedule shall be based upon a written report prepared by the Department which indicates at a minimum the assets, liabilities and income and the number of dependents of the applicant. For the purpose of determining the financial status or ability to pay of an applicant, the Oklahoma Tax Commission is directed to furnish to the Department of Human Services, upon request, such information as may be of record in the Commission relative to the applicant.

2. The schedule shall be promulgated pursuant to the provisions of Article I of the Administrative Procedures Act.

C. The Department of Human Services shall:

1. Submit any federal waiver requests and apply for and otherwise seek to obtain any amendments and exemptions from federal

statutes and rules as necessary to implement the provisions of this section not later than September 1, 1997;

2. Expedite the acquisition of any federal waivers necessary to implement the provisions of this section through amendments, combined waivers, requests and in any other such manner authorized by federal law and rules; and

3. Work in close and continuous coordination with appropriate federal officials and prepare and submit completely and in a timely manner all forms and data required by such federal officials to implement this section.

SECTION 9. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 4th day of March, 1997.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1997.

President of the Senate