

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

HOUSE BILL NO. 1549

By: Settle

AS INTRODUCED

An Act relating to child support; amending 12 O.S. 1991, Sections 1170, as amended by Section 1, Chapter 338, O.S.L. 1995 and 1171.2 (12 O.S. Supp. 1996, Section 1170), which relate to civil collection of child support; amending 19 O.S. 1991, Section 215.28, which relates to powers and duties of the District Attorneys Council; amending 43 O.S. 1991, Section 137, as last amended by Section 3, Chapter 233, O.S.L. 1996 (43 O.S. Supp. 1996, Section 137), which relates to payments or installments of child support; amending 56 O.S. 1991, Sections 234, 235, 237, as last amended by Section 19, Chapter 356, O.S.L. 1994, 237.1, as amended by Section 19, Chapter 346, O.S.L. 1995, 237.2, 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, 238.2, 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, 239, as amended by Section 25, Chapter 356, O.S.L. 1994, 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,

240.4, as amended by Section 9, Chapter 365, O.S.L. 1994, 240.5, as amended by Section 4, Chapter 153, O.S.L. 1992, 240.6, 240.7, as amended by Section 1, Chapter 260, O.S.L. 1996, 240.8, 240.9 and 240.10, and Section 3, Chapter 153, O.S.L. 1992 (56 O.S. Supp. 1996, Sections 237, 237.1, 237.3, 237.7, 238.1, 238.4, 238.6, 239, 240.1, 240.2, 240.4, 240.5 and 240.7), which relate to child support collection by the Department of Human Services; adding to powers and duties of the District Attorneys Council; transferring child support collection services to the District Attorneys Council; requiring administration of a statewide plan for child support, collection, parent location services and paternity determination services; providing for certain remedies; requiring certain agreements; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 12 O.S. 1991, Section 1170, as amended by Section 1, Chapter 338, O.S.L. 1995 (12 O.S. Supp. 1996, Section 1170), is amended to read as follows:

Section 1170. A. For the purposes of this subsection and Sections 1171.2 through 1171.4 of this title:

1. "Arrearage" means the total amount of unpaid support obligations;
2. "Delinquency" means any payment under an order for support which becomes due and remains unpaid;
3. "Income" or "earnings" means any form of payment to an individual regardless of source including, but not limited to,

wages, salary, commission, compensation as an independent contractor, workers' compensation, disability, annuity and retirement benefits, 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;

4. "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;

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

6. "Person entitled" means the person to whom a duty of support is owed as designated in the support order or as otherwise specified by the court;

7. "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;

8. "Support order" means an order for the payment of child support issued by a district court or the ~~Department of Human Services~~ District Attorneys Council; and

9. "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 designated by the support order or assignment for payment of support or arrearages or both. The income assignment may be initiated when the obligor has failed to make child support payments required by a child support order in an amount equal to the child support payable for one (1) month. The assignment shall be in an amount which is sufficient to meet the periodic child support arrearages or other maintenance payments or both imposed by the court order or administrative order. The income assignment shall be made a part of the support order.

B. For the purposes of prejudgment garnishments, "judgment creditor" includes prejudgment garnishors.

SECTION 2. AMENDATORY 12 O.S. 1991, Section 1171.2, is amended to read as follows:

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

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

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

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

The fifty percent (50%) specified in paragraph 1 of this subsection shall be deemed to be fifty-five percent (55%) and the sixty percent

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

SECTION 3. AMENDATORY 19 O.S. 1991, Section 215.28, is amended to read as follows:

Section 215.28 A. There is hereby created a special division of the office of Attorney General to be known as the District Attorneys Council which shall be organized and administered as herein provided. Any reference in the Oklahoma Statutes to the District Attorneys Training Coordination Council shall mean the District Attorneys Council.

B. The chief executive officer of the office of the Council is the Executive Coordinator who shall be appointed and supervised by the Council. The Executive Coordinator shall serve at the pleasure of the Council. The Executive Coordinator shall be licensed to practice law in Oklahoma and shall have been a district attorney or assistant district attorney or have held an equivalent position in state or federal government for at least three (3) years prior to his appointment. The Executive Coordinator may appoint an Assistant Coordinator, both of whom shall be in the unclassified service of the state. The Executive Coordinator and the Assistant Coordinator, who shall also be licensed to practice law in Oklahoma, shall devote full time to their duties and shall not engage in the private practice of law. The Executive Coordinator shall perform the functions and duties as may be assigned to him by the Council. The Executive Coordinator shall be named the project director and fiscal officer of any grant or fund received by the Council. The Executive Coordinator and the Assistant Coordinator shall receive compensation for their services within the pay scale limits for district attorneys.

- C. 1. The Council shall be composed of the following members:
- a. the Attorney General, or his designated representative~~†~~‡
 - b. the President of the Oklahoma District Attorneys Association~~†~~‡
 - c. the President-elect of the Oklahoma District Attorneys Association~~†~~‡
 - d. one district attorney selected by the Court of Criminal Appeals for a three-year term~~†~~‡ and
 - e. one district attorney selected by the Board of Governors of the Oklahoma Bar Association for a three-year term.

2. A member of the Council shall vacate his appointment upon termination of his official position as Attorney General or district attorney. A vacancy shall be filled in the same manner as the original appointment. A member appointed to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member whom he is to succeed in the same manner as the original appointment. Any member may serve more than one term.

D. The Council shall designate from among its members a Chairman and Vice Chairman who shall serve for one-year terms and who may be reelected. Membership on the Council shall not constitute holding a public office. The Council shall not have the right to exercise any portion of the sovereign power of the state. A member of the Council shall not be disqualified from holding any public office or employment by reason of his appointment or membership on the Council, nor shall he forfeit the office or employment, by reason of his appointment hereunder.

E. The Council shall meet at least four times in each year and shall hold special meetings when called by the Chairman, or, in the absence of the Chairman, by the Vice Chairman or when called by the

Chairman upon the written request of two members of the Council. The Council shall establish its own procedures and requirements with respect to quorum, place and conduct of its meetings and other matters.

F. The members of the Council shall not receive a salary for duties performed as members of the Council but shall be entitled to be reimbursed for their travel expenses in accordance with the State Travel Reimbursement Act.

G. The Council shall make an annual report to the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the President of the Oklahoma District Attorneys Association regarding its efforts to implement the purposes of this act.

H. The Council shall have the power to perform such functions as in its opinion shall strengthen the criminal justice system in Oklahoma, to provide a professional organization for the education, training and coordination of technical efforts of all state prosecutors and to maintain and improve prosecutor efficiency and effectiveness in enforcing the laws of this state including, but not limited to, the following:

1. Organize, supervise and perform functions consistent with this act;

2. Convene regional or statewide conferences and training seminars for the purpose of implementing the provisions of this act;

3. Accept and expend monies, gifts, grants or services from any public or private source; contract or enter into agreements with educational institutions or state or federal agencies; and employ personnel as the Council in its judgment finds necessary to effectively carry out the provisions of this act. Such employees shall be in the unclassified service of the state;

4. Serve in an advisory capacity to the district attorneys of the state;

5. Provide and coordinate training and continuing legal education for district attorneys and their assistants, including participation in nationally recognized prosecutorial seminars conducted in other states;

6. Gather and disseminate information to district attorneys relative to their official duties, including changes in the law relative to their office;

7. Coordinate with law enforcement officers, the courts and corrections workers providing interdisciplinary seminars to augment the effectiveness of the criminal justice system;

8. Require statistical reports from district attorneys' offices relating to functions and workload performance;

9. Recommend additional legislation necessary to upgrade the Oklahoma District Attorneys System to professional status;

10. Establish an equitable distribution plan for allocation of any funds or gifts received from public or private sources for state prosecution and distribute such funds in accordance with such plan; and

11. Appoint a larger Advisory Council made up of district attorneys and assistant district attorneys to discuss problems and hear recommendations concerning necessary research, minimum standards, educational needs, and other matters imperative to upgrading Oklahoma prosecution to professional status.

I. There is hereby created in the State Treasury a revolving fund for the Council, to be designated the "District Attorneys Council Revolving Fund". The fund shall consist of all monies received by the Council other than appropriated funds. The revolving fund shall be a continuing fund not subject to fiscal year limitations and shall be under the control and management of the Council. Expenditures from this fund shall be made pursuant to the purposes of this act and without legislative appropriation. Warrants for expenditures shall be drawn by the State Treasurer

based on claims signed by the authorized employee or employees of the Council and approved for payment by the Director of State Finance.

J. The Council may accept operation and supervision of the Law Enforcement Assistance Administration grants presently being administered by the Oklahoma District Attorneys Association.

K. The Council shall administer a statewide plan for child support and provide child support collection, parent location services and paternity determination services.

SECTION 4. AMENDATORY 43 O.S. 1991, Section 137, as last amended by Section 3, Chapter 233, O.S.L. 1996 (43 O.S. Supp. 1996, 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~~ District Attorneys Council is, on and after the date it becomes past due, a judgment by operation of law. Such judgments for past due support shall:

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

2. Be entitled to full faith and credit as a judgment in this state and 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 determined to be past due in an administrative proceeding by the ~~Department of Human Services~~ District Attorneys Council may subsequently be enforced by indirect civil contempt proceedings.

D. 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 5. AMENDATORY 56 O.S. 1991, Section 234, is amended to read as follows:

Section 234. If a party in a divorce action or other civil case has disobeyed or failed to comply with an order of the court to make payments for the support or maintenance of a child for whom the Department of ~~Public Welfare~~ Human Services thereafter makes payments in its program for Aid to Families with Dependent Children,

the Department may ~~file and prosecute in~~ refer such action or civil case for prosecution or the filing of an application to have such party cited and punished for contempt of court, or any other pleading or process to secure a compliance with the court's order.

SECTION 6. AMENDATORY 56 O.S. 1991, Section 235, is amended to read as follows:

Section 235. Any court ordering a party in a civil case to make payments for the support or maintenance of a child may direct, and upon application of the ~~Director of the Department of Human Services~~ District Attorneys Council, the court shall direct, that such payments be made to the ~~Department of Human Services~~ District Attorneys Council which shall be disbursed according to federal regulations. The court's order, or payments made pursuant thereto, shall not affect the amount of ~~such~~ assistance payments so long as the custodian of the child makes all reasonable efforts, when necessary, to cause the court's order to be obeyed. If payments are not made ~~by such party~~ as directed by the court, the ~~Director~~ Executive Coordinator of the ~~Department of Human Services~~ District Attorneys Council may file and prosecute in the case an application to have the party cited for contempt of court, or other pleading to secure a compliance with the court's order. ~~Provided;~~ provided, the authority of the ~~Director of the Department of Human Services~~ District Attorneys Council to take such action shall not affect the right or responsibility of the custodian of the child to take, ~~or~~ nor excuse her or him from taking, similar action. The ~~Oklahoma Commission for Human Services~~ District Attorneys Council shall have authority to adopt such rules and regulations as it deems necessary to carry out the provisions of this act.

SECTION 7. AMENDATORY 56 O.S. 1991, Section 237, as last amended by Section 19, Chapter 356, O.S.L. 1994 (56 O.S. Supp. 1996, Section 237), is amended to read as follows:

Section 237. A. ~~The Department of Human Services District Attorneys Council~~, hereinafter referred to as "~~Department~~" "Council", is designated as the single state agency ~~designated~~ to administer a statewide plan for child support, and is authorized, in accordance with Title IV, Part D, of the Federal Social Security Act, as amended, 42 U.S.C., Section 651 et seq. to provide child support collection, parent location services and paternity determination services to enable it to participate in programs established by federal law.

B. ~~The Department Council~~ Council is authorized to:

1. Accept, transfer and expend funds made available by the government of the United States, the State of Oklahoma and public or private sources, for the purpose of carrying out the provisions of this section;

2. Promulgate rules to provide child support services;

3. Initiate legal actions needed to implement the provisions of this section;

4. Enter into contracts or agreements necessary to administer this section;

5. Request agencies and political subdivisions of the state, county or municipality to search their records and furnish to the ~~Department Council~~ Council information concerning names and addresses to assist in ~~the~~ locating ~~of~~ absent parents; and

6. Request information to assist in locating ~~said individuals~~ absent parents, from any state agency, political subdivision of the state, person, sole proprietorship, corporation, utility, partnership, association or organization doing business in this state, who or which shall provide such information to the ~~Child Support Enforcement Division Council~~ Council when the ~~Child Support Enforcement Division of the Department of Human Services Council~~ Council has reason to believe that ~~individuals~~ absent parents are not providing for the support of their children.

C. 1. An applicant for or recipient of Aid to Families with Dependent Children, hereinafter referred to as "recipient", shall be required to assign to the ~~Department~~ Council any rights of or support from any other person which the recipient may have in his or her own behalf or for a child for whom the recipient is applying for or receiving assistance, including the right to an amount accrued at the time the assignment is executed.

2. When an order has been entered which provides for payment of child support and the legal custodian and obligee pursuant to the order relinquishes physical custody of the child to a caretaker relative who is a recipient, without obtaining a modification of the order to change legal custody, and the caretaker relative makes an assignment of support rights for that child to the ~~Department~~ Council, the relinquishment and assignment, by operation of law, shall create a presumption that the recipient has physical custody of the child and shall transfer the child support obligation pursuant to the order to the ~~Department~~ Council. The assignment and transfer of the obligation shall terminate when the caretaker relative no longer has physical custody of the child, except for the amount of unpaid support still owing to the ~~Department~~ Council pursuant to the assignment.

3. If an assignment has been made pursuant to this section or a proper application made by an individual not receiving Aid to Families with Dependent Children, support payments shall be made to the ~~Department~~ Council. If a court has ordered support payments to be made to the recipient or the applicant, the ~~Department~~ Council may file notice of such assignment or application with the court ordering the payments. The notice shall include:

- a. a statement that the assignment or application has been made~~+~~+

- b. the name of the child for whom support has been ordered by the court and the name of the recipient or custodian of the child~~†~~;
- c. the style and cause number of the case in which support was ordered~~†~~ and
- d. a request that payments so ordered be made to the ~~Department~~ Council. Upon receipt of the notice, and without a requirement of a hearing, the court shall order the payments to be made to the ~~Department~~ Council.

4. ~~Said~~ The order to redirect the payments shall be sent to the obligor by regular mail with proof of mailing from the United States Postal Service. If after notice of said redirection the obligor does not make payments to the ~~Department~~ Council as ordered, said payments shall not be credited to the amount owed. The obligor shall notify the ~~Department~~ Council of any change of address, the name and address of the current employer and access to health insurance and other insurance policy information within ten (10) days of any change.

D. When support rights have been assigned to the ~~Child Support Enforcement Division~~ Council or upon proper application by an obligor or by an individual not receiving Aid to Families with Dependent Children, the ~~Division~~ Council may petition the district court or the Office of Administrative Hearings: Child Support, an administrative court of the ~~Department of Human Services~~ Council, for an order requiring obligor to provide medical insurance for the dependent children whenever it is available through employment or other group plan regardless of whether obligor has insurance coverage available at that time and/or there has been a change of circumstances, establish medical support and child support, enforce orders for medical support or other support, require that the obligor keep the ~~Division~~ Council informed of the name and address

of the current employer of the obligor and access to health insurance and other insurance policy information of the obligor within ten (10) days of any change, and make collection and distribution of child support monies, assist in the judicial determination of the paternity of a child born out of wedlock by a district or administrative court and in location of absent parents, in cooperation with federal agencies, other agencies of this state and of other states, territories, and foreign nations requesting assistance with the enforcement of support orders entered in the United States and elsewhere. The ~~Division~~ Council may petition the district or administrative court to modify any order for support regardless of whether there has been a change of circumstances. A reasonable fee and costs may be assessed for services to individuals not receiving Aid to Families with Dependent Children under rules adopted by the ~~Department~~ Council.

E. Child support payments made to the ~~Division~~ Council 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~~ Council shall be deposited in the Administration Fund of the ~~Department~~ Council and may be used and expended by the ~~Department~~ Council for the purposes of carrying out the provisions of this section.

F. Except as otherwise authorized by law, all files and records concerning the assistance and services provided under this section or concerning a putative father of a child born out of wedlock are confidential. Release of information from the files and records shall be restricted to purposes directly connected with the administration of the child support collection, paternity determination, parent location or Aid to Families with Dependent Children programs. Information may be released to public officials

under rules adopted by the ~~Department~~ Council, consistent with federal rules or regulations.

G. Title to and possession of all equipment, files and records utilized in the administration of Title IV, Part D of the federal Social Security Act is hereby transferred from the Department of Human Services to the District Attorneys Council for the purpose of implementing the provisions of this section.

SECTION 8. AMENDATORY 56 O.S. 1991, Section 237.1, as amended by Section 19, Chapter 346, O.S.L. 1995 (56 O.S. Supp. 1996, Section 237.1), is amended to read as follows:

Section 237.1 ~~District attorneys~~ The District Attorneys Council may enter into agreements with ~~the Department of Human Services~~ district attorneys for the enforcement and collection of child support obligations under Part D of Title IV of the federal Social Security Act, 42 U.S.C.A. Section 651 et seq. ~~Such; provided~~ however, that where it is in the best interests of the program, the Council shall be authorized to enter into agreements with other entities including, but not limited to, private attorneys, collection agencies and other agencies of state and local government. The agreements may include provisions for the payment of federal or state funds ~~to the district attorney~~ for the payment of any expense incurred in the operation of the district attorney's office for the purposes of such agreement. ~~All funds, except payroll funds, shall be transmitted to the county treasurer and deposited in a special fund to be known as the "District Attorney Child Support Contract Fund" and be disbursed in accordance with accounting procedures prescribed by the State Auditor and Inspector. Such special funds shall not be a part of the general fund of the county and shall not be subject to appropriation by the county excise board. Payroll funds, which shall be governed by Section 215.30 of this title, shall be paid pursuant to the agreement.~~

SECTION 9. AMENDATORY 56 O.S. 1991, Section 237.2, is amended to read as follows:

Section 237.2 ~~The Child Support Enforcement Division of the Department of Human Services~~ District Attorneys Council is authorized to provide information or referrals, including but not limited to, income assignments, tax refund offsets, liens and notices, by means of an abstract of the information, which may be submitted to any governmental or private entity by electronic media in the most economical, effective and timely method, including on-line, real time access or various methods of batch processing.

SECTION 10. AMENDATORY Section 3, Chapter 153, O.S.L. 1992 (56 O.S. Supp. 1996, Section 237.3), is amended to read as follows:

Section 237.3 A. Attorneys or collection agencies employed by the ~~Department of Human Services~~ District Attorneys Council for the establishment of paternity and the establishment, enforcement and collection of child support obligations under Part D of Title IV of the Federal Social Security Act, 42 U.S.C., Section 651 et seq., attorneys of qualified collection agencies, or attorneys acting for ~~said Department~~ the Council through an agreement as set forth in Section 237.1 of this title may represent the state or other states in administrative or civil actions.

B. ~~Department~~ Council attorneys represent the state and not the interests of any other party. Providing services under Title IV-D of the Federal Social Security Act does not create an attorney-client relationship with any other party.

C. Neither the ~~Department of Human Services~~ Council nor any attorney providing services under Title IV-D of the Federal Social Security Act shall be authorized to accept service, as authorized in Section 2005 of Title 12 of the Oklahoma Statutes, for any party other than the ~~Department of Human Services~~ Council.

SECTION 11. AMENDATORY 56 O.S. 1991, Section 240, as renumbered by Section 14, Chapter 365, O.S.L. 1994, and as last amended by Section 3, Chapter 354, O.S.L. 1995 (56 O.S. Supp. 1996, Section 237.7), is amended to read as follows:

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

~~1. A. The "Child Support Enforcement Division of the Department of Human Services", hereinafter referred to as the "Division" or as the "Department",~~ District Attorneys Council 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~~ Council provides enforcement services to individuals receiving Aid to Families with Dependent Children, hereinafter referred to as "AFDC", and to individuals not receiving AFDC who have made proper application for enforcement services to the ~~Division;~~ Council.

~~2. B. For purposes of Sections 238 through 240.14 of this~~ title:

~~1. "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. 2.~~ "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 of Human Services or the reasonable expenses of providing for a child or children. The amount of the debt shall be determined in accordance with the provisions of Section 118 of Title 43 of the Oklahoma Statutes;

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

~~5.~~ 4. "Delinquency" means any payment under an order for support which becomes due and remains unpaid;

~~6.~~ 5. "Gross income", "income" or "earnings" means income from any source and includes but is not limited to income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, rent, interest income, trust income, annuities, compensation as an independent contractor, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, prizes, any form of periodic payment to an individual regardless of source, and any other payments made by any person, private entity, federal or state government, any unit of local government, school district, or any entity created by law. Income specifically excluded are actual child support received for children not before the court and benefits received from means-tested public assistance programs, including but not limited to AFDC, Supplemental Security Income (SSI), Food Stamps, General Assistance and State Supplemental Payments for Aged, Blind and the Disabled.

For purposes of computing gross income of the parents, gross income shall include for each parent all actual monthly income described in this paragraph, the average of the gross monthly income for the time actually employed during the previous three (3) years, or the minimum wage paid for a forty-hour week, whichever is the most equitable. If equitable, gross monthly income for either parent may be imputed in an amount that a person with comparable education, training and experience could reasonably expect to earn. If a person is permanently physically or mentally incapacitated, the child support obligation shall be computed on the basis of actual monthly gross income;

~~7.~~ 6. "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.~~ 7. "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.~~ 8. "Person entitled" means:

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

~~10.~~ 9. "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.~~ 10. "Support order" means an order for the payment of support issued by a district or administrative court of this state or by any court or agency of another state;

~~12.~~ 11. "Income assignment" is a provision of a support order which directs the obligor to assign a portion of the monies, income, or periodic earnings due and owing to the obligor to the person entitled to the support or to another person or entity designated by the support order or assignment for payment of support, the support debt, and/or arrearages. In all other child support orders wherein child support is being paid to a recipient of AFDC, the wages of any parent required by court or administrative order to pay support

shall be subject to immediate income assignments regardless of whether support payments by such parent are in arrears. In all child support orders in which child support services are being provided under the state child support plan as provided under Section 237 of this title, the court or administrative law judge shall order the wages of any person required by the court or administrative order to pay support be subject to immediate income assignment, unless:

- a. one of the parties demonstrates and the district or administrative court finds good cause not to require immediate income withholding, or
- b. a written agreement is reached between the parties which provides for an alternative arrangement.

The assignment shall be in an amount which is sufficient to meet the monthly child support payments, payments on support debt and arrearages or other maintenance payments imposed by the district or administrative court order. The income assignment shall be made a part of a support order or any order granting a judgment for a support debt or arrearages, or a review or modification of a support order pursuant to Section 118.1 of Title 43 of the Oklahoma Statutes;

~~13.~~ 12. "Voluntary acknowledgment" means a written acknowledgment executed by the obligor wherein the obligor acknowledges paternity, support liability, a support debt or arrearage amount, and agrees to a judgment and an immediate income assignment to pay monthly support and payments on the support debt or arrearage judgments;

~~14.~~ 13. "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.~~ 14. "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.~~ 15. "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.~~ 16. "~~Commission Council~~" means the ~~Commission for Human Services~~ District Attorneys Council; and

~~18.~~ 17. "Payment plan" includes but is not limited to a plan approved by the support enforcement entity that provides sufficient security to ensure compliance with a support order and/or that incorporates voluntary or involuntary income assignment or a similar plan for periodic payment of past-due support and, if applicable, current and future support.

SECTION 12. 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 ~~Division~~ District Attorneys Council 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~~ Council. 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;

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;

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

SECTION 13. AMENDATORY 56 O.S. 1991, Section 238.2, is amended to read as follows:

Section 238.2 Any person, firm, corporation, association, political subdivision or department of the state employing a person owing a support debt or obligation shall honor, according to its terms, a duly executed assignment of earnings presented by the ~~Director~~ Executive Coordinator of the District Attorneys Council as a plan to satisfy or retire a support debt or obligation. This requirement to honor the assignment of earnings and the assignment of earnings itself shall be applicable whether ~~said~~ the earnings are to be paid presently or in the future and shall continue in force and effect until released in writing by the ~~Director~~ Executive Coordinator. Payment of money pursuant to an assignment of earnings presented by the ~~Director~~ Executive Coordinator shall serve as full acquittance under any contract of employment, and the state warrants and represents it shall defend and hold harmless such action taken pursuant to said assignment of earnings. The ~~Director~~ Executive Coordinator shall be released from liability for improper receipt of monies under an assignment of earnings upon return of any monies so received.

SECTION 14. 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~~ District Attorneys Council. 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~~ Council. 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 ~~Division~~ Council 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~~ Council 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~~ Council 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~~ Council, 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 order for periodic support payments made pursuant to the provisions of this title shall be payable to the ~~Division~~ Council for as long as the ~~Division~~ Council is providing support enforcement. Thereafter, if AFDC 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~~ Council that the child has been recertified for receipt of public assistance, or until the child reaches the age of majority.

SECTION 15. 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 and 238.7 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~~
District Attorneys Council 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~~ Council 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.

E. The Council shall create an Office of Administrative
Hearings to provide administrative law judges and support staff who
are responsible for fulfilling the requirements of the
administrative procedures required by this section.

SECTION 16. AMENDATORY 56 O.S. 1991, Section 238.7, is
amended to read as follows:

Section 238.7 A final order of the ~~Department of Human Services~~
District Attorneys Council 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 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~~ Council or other entity, by agreement of the ~~Department~~ Council or such entity.

SECTION 17. AMENDATORY 56 O.S. 1991, Section 239, as amended by Section 25, Chapter 356, O.S.L. 1994 (56 O.S. Supp. 1996, Section 239), is amended to read as follows:

Section 239. On or before December 31 of each year, the ~~Department~~ District Attorneys Council shall file a written report with the Division of the Budget and Division of Central Accounting and Reporting, the Director of the Legislative Service Bureau, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives, containing an accounting of all monies received by the ~~Department~~ Council from the federal programs pursuant to Title IV-D of the Social Security Act, as amended, and all monies received pursuant to orders for child support or administrative determinations of the ~~Department~~ Council for the preceding federal fiscal year. The report shall also specify any expenditures made by the ~~Department~~ Council pursuant to orders for child support or administrative determinations of the ~~Department~~ Council for the preceding federal fiscal year.

SECTION 18. AMENDATORY 56 O.S. 1991, Section 240.1, as amended by Section 6, Chapter 365, O.S.L. 1994 (56 O.S. Supp. 1996, Section 240.1), is amended to read as follows:

Section 240.1 A. In cases where child support services are being provided by the ~~Division~~ District Attorneys Council, the ~~Division~~ Council may initiate enforcement proceedings to obtain a judgment for arrearages; to effectuate an income assignment; to receive current support and judgment payments; to review and modify support orders pursuant to child support guidelines in Section 118 of Title 43 of the Oklahoma Statutes; and to initiate any other legal proceeding in the district or administrative court to implement the collection of support from an obligor. A reasonable

fee and costs may be assessed for the services pursuant to the rules and regulations promulgated by the ~~Department~~ Council. Such fee, not to exceed Twenty-five Dollars (\$25.00), shall be paid by the applicant and such other costs shall be in addition to the amount withheld pursuant to the income assignment. In any hearing on a notice of delinquency or other enforcement proceeding, the district or administrative court may include the amount of the fee paid by the person entitled to support payments in any judgment against the obligor.

B. The ~~Division~~ Council is authorized to initiate enforcement proceedings and receive payments pursuant to Section 240.2 of this title to effectuate an income assignment for spousal support or the support of a minor child or both for an applicant or any person who is the recipient of Aid to Families with Dependent Children.

C. The ~~Division~~ Council is authorized to initiate enforcement proceedings and receive payments pursuant to Section 240.2 of this title to effectuate an income assignment for any debt due and owing to this state by the natural or adoptive parents or parent who are responsible for the support of a minor child pursuant to Section 238 of this title or found to be responsible for the support of a minor child pursuant to Sections 238.1 through 238.6 of this title.

D. Upon application by an obligor who requests support enforcement services, the ~~Division~~ Council is authorized to initiate any proceedings necessary to provide support enforcement services to the obligor and to receive payments of the support obligation or any judgment. A reasonable fee and costs may be assessed for the services pursuant to the rules promulgated by the ~~Department~~ Council. Such fee, not to exceed Twenty-five Dollars (\$25.00), shall be paid by the applicant.

SECTION 19. AMENDATORY 56 O.S. 1991, Section 240.2, as amended by Section 7, Chapter 365, O.S.L. 1994 (56 O.S. Supp. 1996, Section 240.2), is amended to read as follows:

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

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

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

2. a. An obligor may request a hearing pursuant to this section by delivering written notice to the ~~District Office~~ Council 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~~ Council shall promptly enter the appearance

of the obligor on the administrative court hearing docket. The administrative court shall hear and determine the matter and, unless the obligor successfully shows there is a mistake of identity or a mistake in the existence or the amount of support monies owed, the administrative court shall enter a judgment, determine the amount of judgment payments, if any, and order the assignment of nonexempt earnings of the obligor pay the judgment and future monthly support payments.

- b. The administrative court may order an obligor to pay all costs involved in enforcement proceedings under this subsection and shall order interest at the rate of ten percent (10%) per year from the date court-ordered child support payments became delinquent, to be collected in the same manner as the payments upon which the interest accrued.
- c. The order shall be a final judgment for purposes of appeal. The effect of the income assignment shall not be stayed on appeal except by order of the court pursuant to Section 240.3 of this title.
- d. The ~~Division~~ Council 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~~ Council 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~~ Council 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~~ Council 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~~ Council 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~~+~~l,
- b. the amount to be withheld from the obligor's earnings each pay period for support monies. The amount withheld by the payor shall not exceed the limits on the percentage of an obligor's income which may be

assigned for support pursuant to Section 1171.2 of Title 12 of the Oklahoma Statutes~~†~~†

- 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 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~~ Council 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~~ Council 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~~ Council 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 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~~ Council within ten (10) days of receipt of said notice. Failure to notify the ~~Division~~ Council 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~~ Council and/or the obligor may bring an action against the payor to enforce the provisions of the notice in the underlying district court case or by separate proceeding in district court.

2. The payor may combine withheld amounts from earnings of two or more obligors in a single payment and separately identify that portion of the single payment which is attributable to each individual obligor.

3. An income assignment issued pursuant to the provisions of this section shall have priority over any prior or subsequent garnishments of the same wages.

4. The payor may deduct from any earnings of the obligor a sum not exceeding Five Dollars (\$5.00) per pay period but not to exceed Ten Dollars (\$10.00) per month as reimbursement for costs incurred by the payor in complying with the income assignment.

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

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

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

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

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

F. The income assignment proceedings specified in this section shall be available to other states for the enforcement of child support and maintenance or to enforce out-of-state orders. Venue for such proceedings is, at the option of the obligee:

1. In the county in Oklahoma in which the support order was entered; or
2. In the county in Oklahoma in which the obligee resides; or
3. In the county in Oklahoma in which the obligor resides or receives income.

G. Any payment made pursuant to the provisions of this section by the payor shall be made payable to the ~~Department~~ Council, 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~~ Council 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~~ Council.

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

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

SECTION 20. AMENDATORY 56 O.S. 1991, Section 240.4, as amended by Section 9, Chapter 365, O.S.L. 1994 (56 O.S. Supp. 1996, Section 240.4), is amended to read as follows:

Section 240.4 A report of the payments made by the obligor or payor or of AFDC payments made to a person entitled to support which is prepared by the ~~Division, the District Office~~ District Attorneys Council, or by public agencies in other states with a certification of authenticity executed by the ~~Division, the District Office~~ Council, or a public agency in another state is admissible into evidence in district court or in an administrative court proceeding as self-authenticated.

SECTION 21. 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~~ District Attorneys

Council through its statewide plan for child support authorized by the Federal Social Security Act, 42 U.S.C., Section 301 et seq.

B. The ~~Department~~ Council is authorized to study, develop and propose to the Legislature a fee schedule for child support enforcement services provided through the ~~Child Support Enforcement Division of the Department~~ Council.

SECTION 22. AMENDATORY 56 O.S. 1991, Section 240.6, is amended to read as follows:

Section 240.6 In addition to the powers and duties of the ~~Department~~ District Attorneys Council provided in Section 237 of ~~Title 56 of the Oklahoma Statutes~~ this title, the ~~Department of Human Services~~ Council is authorized to enforce a support payment of a spouse or former spouse pursuant to a court order requiring such support if a child support obligation is being enforced under the state plan of the ~~Department~~ Council authorized by the federal Social Security Act.

SECTION 23. AMENDATORY 56 O.S. 1991, Section 240.7, as amended by Section 1, Chapter 260, O.S.L. 1996 (56 O.S. Supp. 1996, Section 240.7), is amended to read as follows:

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

2. If the ~~Department~~ Council determines that any obligor is required to pay child support according to the files of the ~~Department~~ Council, the ~~Department~~ Council shall provide the consumer reporting agency with a report that includes the name of the obligor who is subject to the request, a statement that the obligor is required to pay child support pursuant to one or more

court or administrative support orders, the names of each court or agency that issued a child support order, and whether any of the child support orders are being administered by the ~~Department~~ Council.

3. Unless otherwise prohibited or restricted by federal law or regulation, the ~~Commission for Human Services~~ Council, by rule, shall adopt a reasonable fee that shall be paid by consumer reporting agencies for requests pursuant to this section. The fee shall not exceed the estimated average actual cost experienced by the ~~Department~~ Council in performing the duties imposed upon it by this section.

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

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

D. Information shall not be made available to:

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

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

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

SECTION 24. AMENDATORY 56 O.S. 1991, Section 240.8, is amended to read as follows:

Section 240.8 A. The ~~Department of Human Services~~ District Attorneys Council shall provide, from any available funds, for the publication and statewide distribution to the public of information as to the availability of the services offered by the ~~Department Council~~ Council for the collection of child support.

B. The ~~Department of Human Services~~ Council shall provide copies of the information specified in subsection A of this section to the court clerks of each county for distribution to the public.

SECTION 25. AMENDATORY 56 O.S. 1991, Section 240.9, is amended to read as follows:

Section 240.9 A. In filing cases involving concurrent jurisdiction between the administrative proceedings of the ~~Department of Human Services~~ District Attorneys Council and the district court, the cases shall be filed in the administrative proceedings of the ~~Department of Human Services~~ Council. The ~~Department of Human Services~~ Council, by regulation, may establish exceptions from this requirement subject to federal approval.

B. Child support orders originating from other states shall be enforced to the same extent as orders originating within this state. Said orders to be filed in the county of residence of the obligor or in the county of residence of the person entitled to support.

SECTION 26. AMENDATORY 56 O.S. 1991, Section 240.10, is amended to read as follows:

Section 240.10 A. Anyone who is ordered to pay support for a child in an administrative or court action, hereinafter referred to

as "obligor", is required by law to obtain and maintain gainful employment sufficient to meet the support obligation.

B. The ~~Department~~ District Attorneys Council, when support rights have been assigned to it or proper application made by an individual not receiving Aid to Families with Dependent Children, may initiate an administrative action to obtain an order to require an unemployed or underemployed obligor to participate in job-finding or job-training programs. "Underemployed" is defined as being employed less than full-time or in an occupation which pays less than employment which someone of obligor's skills and education could be reasonably expected to earn, so that the obligor cannot meet his support obligation. The ~~Department~~ Council shall give notice of this requirement to the obligor who is not complying with a court or administrative order for support and who the ~~Department~~ Council has reason to believe is unemployed or underemployed. Said notice shall be served upon the obligor in the same manner prescribed for service of summons in a civil action. The notice shall state:

1. The name of the child for whom support is ordered and the custodian of the child;

2. That the obligor is not complying with the court or administrative order for support and is delinquent in a certain amount;

3. That it appears that the obligor is unemployed or underemployed so that he cannot meet his support obligation;

4. That the obligor shall appear for a conference in his county of residence on a date certain to show cause why he should not be ordered to participate in job-finding or job-training programs and to accept available employment; and

5. That if it is determined that the obligor is unemployed or underemployed or if the obligor fails to appear, an order will be entered which will require the obligor to participate in job-finding

and job-training programs and to accept available employment and that such order may be docketed with the district court in the county of residence of the obligor and shall be enforced as any other order of the district court by indirect civil contempt proceedings.

C. At the conference the ~~Department~~ Council shall determine if the obligor is unemployed or is underemployed. If it is determined that the obligor is unemployed or underemployed, the ~~Department~~ Council shall enter an order setting forth the ~~Department's~~ Council's findings and requiring that the obligor shall participate in job-finding or job-training programs and accept available employment. The order shall state when the obligor shall report and to what location. The order may be docketed with the district court in the obligor's county of residence and shall be enforced as any other order of the district court by indirect civil contempt proceedings. A copy of the order will be mailed by the ~~Department~~ Council to the obligor's last-known address.

D. If the obligor fails to appear for the conference, the ~~Department~~ Council shall enter an administrative order requiring that the obligor report to the ~~Department~~ Council to participate in job-finding or job-training programs and accept available employment. The order shall state when and where the obligor is to report to participate in said programs. The order may be docketed with the district court in the county of residence of the obligor and shall be enforced as any other order of the district court by indirect civil contempt proceedings. A copy of the order will be mailed by the ~~Department~~ Council to the obligor's last-known address.

E. The obligor may show good cause why an administrative order should not be entered requiring him to participate in job-finding or job-training programs and accept available employment. "Good cause" is defined as establishing by expert medical opinion that the person

is mentally or physically unable to work or such other grounds as the ~~Department~~ Council determines by regulation constitutes good cause.

F. If the obligor feels aggrieved by the findings and order of the ~~Department~~ Council, the obligor may appeal the decision of the ~~Department~~ Council by filing a petition in error in the district court of the county of residence of the obligor within thirty (30) days of the date the obligor is notified of the order, pursuant to the provisions of ~~Sections 318 through 323 of Title 75 of the Oklahoma Statutes~~ the Administrative Procedures Act.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.11a of Title 56, unless there is created a duplication in numbering, reads as follows:

The District Attorneys Council may provide that the state remedies made available to the Council to collect and enforce child support obligations are also available to all attorneys within the State of Oklahoma engaged in the practice of law.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 240.11b of Title 56, unless there is created a duplication in numbering, reads as follows:

The Department of Human Services shall enter into all agreements with the District Attorneys Council which are necessary to make the transfer of the child support program orderly and efficient. The Department of Human Services shall enter into all agreements with the District Attorneys Council which are necessary to maintain the orderly operation of the child support program after the transfer of administration of the program to the District Attorneys Council, including, but not limited to, agreements to provide continued support for data processing, automated system development and financial operations. These agreements shall provide for compensation to the Department of Human Services only for the actual, reasonable and direct costs of the particular services

provided. Any agreement in this section shall remain in effect until canceled by the District Attorneys Council.

SECTION 29. This act shall become effective July 1, 1997.

SECTION 30. 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.

46-1-5235

KSM