

ENGROSSED SENATE
BILL NO. 1520

By: Cain of the Senate

and

Blackburn of the House

[child support - executions on judgments and income
assignment proceedings - Centralized Support
Registry - visitation, care and custody of children
- Oklahoma Centralized Support Registry Act -
enforcement proceedings - payments pursuant to
income assignments -

effective date]

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

SECTION 1. AMENDATORY 12 O.S. 1991, Section 735, as amended by Section 3, Chapter 320, O.S.L. 1997 (12 O.S. Supp. 1999, Section 735), is amended to read as follows:

Section 735. If execution is not issued by the court clerk and filed with the county clerk as provided in Section 759 of this title, or a notice of renewal of judgment substantially in the form prescribed by the Administrative Director of the Courts is not filed with the court clerk, or a garnishment summons is not issued by the court clerk, or a certified copy of a notice of income assignment is not sent to a payor of the judgment debtor within five (5) years after the date of any judgment that now is or may hereafter be rendered in any court of record in this state, or if more than five (5) years has passed from the date that the last execution on the judgment was filed with the county clerk, or the last notice of renewal of judgment was filed with the court clerk, or the date that the last garnishment summons was issued, or the date that a certified copy of a notice of income assignment was sent to a payor

of the judgment debtor, the judgment shall become unenforceable and of no effect; provided, this section shall not apply to judgments against municipalities or to child support judgments by operation of law.

SECTION 2. AMENDATORY 12 O.S. 1991, Section 759, as amended by Section 4, Chapter 320, O.S.L. 1997 (12 O.S. Supp. 1999, Section 759), is amended to read as follows:

Section 759. A. When a general execution is issued and placed in the custody of a sheriff for levy, a certified copy of the execution shall be filed in the office of the county clerk of the county whose sheriff holds the execution and shall be indexed in the same manner as judgments.

B. If a general or special execution is levied upon lands and tenements, the sheriff shall endorse on the face of the writ the legal description and shall have three disinterested persons who have taken an oath to impartially appraise the property levied on, upon actual view; and the disinterested persons shall return to the officer their signed estimate of the real value of the property.

C. To extend a judgment lien beyond the initial or any subsequent statutory period, prior to the expiration of such period, one of the following shall be filed and indexed in the same manner as judgments in the office of the county clerk in the county in which the statement of judgment was filed and the lien thereof is sought to be retained:

1. A certified copy of a general execution upon the judgment;
2. A certified copy of a notice of renewal of judgment; ~~or~~
3. A certified copy of a garnishment summons issued against the judgment debtor; or
4. A certified copy of a notice of income assignment sent to a payor of the judgment debtor.

SECTION 3. AMENDATORY 12 O.S. 1991, Section 1171.3, as last amended by Section 5, Chapter 323, O.S.L. 1998 (12 O.S. Supp. 1999, Section 1171.3), is amended to read as follows:

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

1. The amount of support owed, if any;

2. That the obligor may object to all or any part of the notice at a hearing which will be held at a given location on a date specified in the notice to show cause why the obligor should not be determined liable for the relief requested in the notice;

3. That at the hearing the obligor may contest the allegations in the notice only with regards to mistake of identity, or to the existence or the amount of support owed; and

4. That the assignment shall remain in effect for as long as current support is due or support arrearages remain unpaid and that any payment will not prevent an income assignment from taking effect.

B. 1. The court shall promptly hear and determine the matter and, unless the obligor successfully shows that there is a mistake of identity or a mistake as to the existence of current or delinquent support, the court shall enter a judgment, determine the amount of judgment payments, if any, and order that the income assignment take effect against the disposable earnings or other income of the obligor.

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

3. The order shall be a final judgment for purposes of appeal. The effect of the income assignment shall not be stayed on appeal except by order of the court.

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

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

D. If the obligor fails to appear at the hearing, the court shall enter an order granting judgment for the amount of any arrearage, establishing a judgment payment plan, if appropriate, and approving the income assignment. After the court has ordered an income assignment, the applicant shall file the original notice with the court and send a copy of the notice of income assignment to the payor pursuant to subsection E of this section to effectuate the assignment.

E. 1. The notice of income assignment required pursuant to subsections B, C, and D of this section shall be sent by the applicant to the payor on a standardized form prescribed by the Secretary of Health and Human Services. The notice shall be sent by certified mail, return receipt requested or served according to law. The payor shall be required to comply with the provisions of this

subsection ~~as~~ and the provisions stated in the notice. ~~The notice shall specify:~~

~~a. the effective date of the assignment.~~

2. The assignment shall take effect on the next payment of earnings to the obligor after the payor receives notice thereof and the amount withheld shall be sent to the person entitled to the support within seven (7) days after the date upon which the obligor is paid. The payor shall include with each payment a statement reporting the date on which the obligor's support obligation was withheld~~τ.~~

~~b. the amount specified in the support order and the amount of the arrearage to be withheld from the obligor's earnings.~~

3. The payor shall withhold each pay period the amounts specified in the notice from the obligor's income and earnings. The amount withheld by the payor shall not exceed the limits on the percentage of an obligor's income which may be assigned for support pursuant to Section 1171.2 of this title~~τ.~~

~~c. that the withholding~~ 4. The income assignment is binding upon the payor until released or until further order of the court ~~or as long as the order for support on which it is based remains in effect~~~~τ.~~

~~d. that two or more income assignments may be levied concurrently, but if the total levy exceeds the maximum permitted under Section 1171.2 of this title, all current support due shall be paid before the payment of any arrearages. If total current support exceeds the maximum permitted under Section 1171.2 of this title, the amount available shall be paid pro rata by the percentage of total current support owed to all obligees. After current support, the sums due under the first assignment issued under this section~~

~~shall be paid before the payment of any sums due on any subsequent income assignment; provided, that the court which issued the initial income assignment, upon notice to all interested parties, is authorized to prorate the payment of the support between two or more income assignments levied concurrently,~~

5. All payments shall be made through the Centralized Support Registry as provided in Section 413 of Title 43 of the Oklahoma Statutes.

~~e. if~~

6. If the amount of support due under the assignments exceeds the maximum amount authorized by Section 1171.2 of this title, the payor shall pay the amount due up to the statutory limit, and the payor shall send written notice ~~to the court and~~ to the person entitled to support or agency designated to receive payments that the amount due exceeds the amount subject to withholding; ~~if.~~ If the payor fails to pay or notify as required herein, the payor may be liable for an amount up to the accumulated amount that is due and owing upon receipt of the notice~~.~~

~~f. that, if~~

7. If the payor is the obligor's employer, the payor shall ~~notify~~ send written notice to the person ~~entitled to the support payment, and the court~~ or agency designated to receive payments within ten (10) days of when the obligor terminates employment. ~~The payor shall provide by written notice to the person entitled to support and to the court,~~ and shall provide the obligor's last-known address and the name of the obligor's new employer, if known~~.~~

~~g. that, if~~

8. If the payor has no income due or to be due to the obligor in the payor's possession or control or if the obligor has terminated employment with the payor prior to the receipt of notice required pursuant to subsection C of this section, the payor shall

send written notice to the ~~court and the person entitled to support~~ or agency designated to receive payments within ten (10) days of receipt of the notice. Failure to notify ~~the person entitled to support and the court~~ within the required time limit may subject the payor to liability for an amount up to the accumulated amount that is due and owing upon receipt of the notice, ~~and~~.

~~h. that the~~

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

- ~~(i)~~ a. fails to withhold or pay the support in accordance with the provisions of the assignment notice, or
- ~~(ii)~~ b. fails to notify the person ~~entitled to support and the court~~ or agency designated to receive payments as required.

~~2.~~ 10. The payor may combine withheld amounts from earnings of two or more obligors subject to the same support order in a single payment and separately identify that portion of the single payment which is attributable to each individual obligor.

~~3.~~ 11. An income assignment issued pursuant to the provisions of this section shall have priority over any prior or subsequent garnishments of the same wages; provided, however, income assignments issued pursuant to the provisions of this section and garnishments for support issued pursuant to the provisions of Section 1173.1 of this title shall be of equal priority, except as may otherwise be provided for in this section.

~~4.~~ 12. 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 for the income assignment.

~~5.~~ 13. The assignment shall remain effective regardless of a change of payor.

~~6.~~ 14. The income assignment issued pursuant to this section shall remain in effect for as long as current support is due or until all arrearages for support are paid, whichever is later. Payment of any arrearages shall not prevent the income assignment from taking effect.

~~7.~~ 15. The payor may not discipline, suspend, discharge, or refuse to promote an obligor because of an assignment executed pursuant to this section. Any payor who violates this section shall be liable to the obligor for all income, wages, and employment benefits lost by the obligor from the period of unlawful discipline, suspension, discharge, or refusal to promote to the reinstatement or promotion.

F. Upon written notification of the name and address of a new employer or payor and payment of the required fees for mailing by the person ~~or entity entitled to support~~ or agency designated to receive payments, the applicant shall send a new notice of income assignment pursuant to subsection E of this section. Income assignment proceedings shall be available to collect day care and health expense arrearages as well as support alimony payments; provided, child support shall be paid prior to any alimony payments.

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

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

I. The income assignment proceedings specified in this section shall be available to other states for the enforcement of support

and maintenance or to enforce out-of-state orders. Venue for these proceedings is, at the option of the obligee:

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

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

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

J. 1. In all child support cases in which child support services are being provided under the state child support plan as provided under Section 237 of Title 56 of the Oklahoma Statutes, all orders for ~~current~~ support are subject to immediate income assignment without any need for a hearing by the district or administrative court.

2. In all child support cases arising out of an action for divorce, paternity, or other proceeding in which services are not being provided under the state child support plan as provided under Section 237 of Title 56 of the Oklahoma Statutes, the court shall order the income of any parent ordered to pay child support to be subject to immediate income assignment regardless of whether child support payments are in arrears at the time of the order, unless (1) one of the parties demonstrates and the court finds that there is good cause not to require immediate income withholding, or (2) a written agreement is reached between the parties which provides for an alternative arrangement.

SECTION 4. AMENDATORY 43 O.S. 1991, Section 111.1, as amended by Section 1, Chapter 301, O.S.L. 1999 (43 O.S. Supp. 1999, Section 111.1), is amended to read as follows:

Section 111.1 A. 1. Any order providing for the visitation of a noncustodial parent with any of the children of such noncustodial parent shall provide a specified minimum amount of visitation between the noncustodial parent and the child unless the court determines otherwise.

2. Except for good cause shown and when in the best interests of the child, the order shall encourage additional visitations of the noncustodial parent and the child and in addition encourage liberal telephone communications between the noncustodial parent and the child.

B. 1. Except for good cause shown:

~~1. When, when~~ a noncustodial parent who is ordered to pay child support and who is awarded visitation rights fails to pay child support, the custodial parent shall not refuse to honor the noncustodial parent's visitation rights; ~~and.~~

2. When a custodial parent refuses to honor a noncustodial parent's visitation rights, the noncustodial parent shall not fail to pay any ordered child support or alimony.

C. 1. Violation of an order providing for the payment of child support or providing for the visitation of a noncustodial parent with any of the children of such noncustodial parent may be prosecuted as indirect civil contempt pursuant to Section 566 of Title 21 of the Oklahoma Statutes or as otherwise deemed appropriate by the court.

2. Unless good cause is shown for the noncompliance, the prevailing party shall be entitled to recover court costs and attorney fees expended in enforcing the order and any other reasonable costs and expenses incurred in connection with the denied child support or denied visitation as authorized by the court.

SECTION 5. AMENDATORY 43 O.S. 1991, Section 112, as last amended by Section 2, Chapter 301, O.S.L. 1999 (43 O.S. Supp. 1999, Section 112), is amended to read as follows:

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

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

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

3. May modify or change any order whenever circumstances render the change proper either before or after final judgment in the action; provided, that the amount of the periodic child support payment shall not be modified retroactively or payment of all or a portion of the past due amount waived, except by mutual agreement of the obligor and obligee, or if the obligee has assigned child support rights to the Department of Human Services or other entity, by agreement of the Department or other entity. Unless the parties agree to the contrary, a completed child support computation form provided for in Section 120 of this title shall be required to be filed with the child support order.

The social security numbers of both parents and the child shall be included on the child support order summary form provided for in Section 120 of this title, which shall be filed with all child support orders.

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

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

- a. assure children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, and

- b. encourage parents to share the rights and responsibilities of child rearing in order to effect this policy.

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

3. When in the best interests of the child, custody shall be awarded in a way which assures the frequent and continuing contact of the child with both parents. When awarding custody to either parent, the court:

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

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

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

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

D. 1. Except for good cause shown, a pattern of failure to allow court-ordered visitation may be determined to be contrary to the best interests of the child and as such may be grounds for modification of the child custody order.

2. For any action brought pursuant to the provisions of this section which the court determines to be contrary to the best interests of the child, the prevailing party shall be entitled to recover court costs, attorney fees and any other reasonable costs and expenses incurred with the action.

E. Any child shall be entitled to support by the parents until the child reaches eighteen (18) years of age. If a dependent child is regularly and continuously attending high school, said child shall be entitled to support by the parents through the age of eighteen (18) years. No hearing shall be required to extend such support through the age of eighteen (18) if the child is regularly and continuously attending high school.

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

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

SECTION 6. AMENDATORY 43 O.S. 1991, Section 135, as last amended by Section 11, Chapter 323, O.S.L. 1998 (43 O.S. Supp. 1999, Section 135), is amended to read as follows:

Section 135. A. An arrearage in payment of child support reduced to an order of the court or administrative order of the

Department of Human Services or any past due payment or installment of child support that is a judgment and lien by operation of law may be a lien against the real and personal property of the person ordered to make the support payments.

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

C. A ~~certified copy of the judgment or order providing for the payment of~~ current support or an arrearage of child support ~~or,~~ subject to the provisions of subsection B of this section, a ~~certified copy of a judgment or order providing for payment of child support pursuant to which a past due amount has accrued may be filed with the county clerk of the county where~~ shall be a lien upon real property owned by the person obligated to pay support ~~is situated and shall, from the time it is filed of record, become a lien upon the real property, or upon any real property which may be acquired by the person prior to the release of the lien, for the amount of the arrearage~~ or upon any real property which may be acquired by the person prior to the release of the lien. Notice of the lien on real property shall be given by the filing of a statement of judgment pursuant to Section 706 of Title 12 of the Oklahoma Statutes with the county clerk of the county where the property is located. At the time the state central registry becomes operational, the The amount reflected in the official records of that agency the Centralized Support Registry provided for in Section 413 of this title shall constitute the amount of the lien on the obligor's real property, if a past due amount is not indicated in the statement of

judgment or the amount reflected in the Registry differs from that in the statement of judgment. The judgment or order shall not become a lien for any sums prior to the date they severally become due and payable. A child support judgment shall become dormant as a lien upon real property five (5) years from the date the ~~judgment statement of judgment~~ statement of judgment is filed of record with the county clerk unless ~~execution is issued and filed with the county clerk within five (5) years from the date the judgment is determined or last execution on the judgment is issued as required by law~~ the judgment lien is extended in accordance with subsection C of Section 759 of Title 12 of the Oklahoma Statutes.

D. A judgment providing for the payment of an arrearage of child support or pursuant to which a past due amount has accrued shall become a lien upon benefits payable as a lump sum received from a workers' compensation claim of the person ordered to pay the support upon the filing of an affidavit and a certified copy of the judgment or order with the Administrator of the Workers' Compensation Court, if a proceeding for compensation under the Workers' Compensation Act has been initiated by or on behalf of the obligor. If a proceeding for compensation has not been initiated, an affidavit and a certified copy of the judgment or order shall be served by certified mail upon the entity responsible for paying workers' compensation benefits to the person ordered to pay support.

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

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

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

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

SECTION 7. AMENDATORY 43 O.S. 1991, Section 137, as last amended by Section 12, Chapter 323, O.S.L. 1998 (43 O.S. Supp. 1999, Section 137), is amended to read as follows:

Section 137. A. Any payment or installment of child support ordered pursuant to any order, judgment, or decree of the district court or administrative order of the Department of Human Services is, on and after the date it becomes past due, a judgment by operation of law. 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. 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~~ the judgment lien is extended in accordance with subsection C of Section 759 of Title 12 of the Oklahoma Statutes.

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. After the implementation

of the Centralized Support Registry, any amounts determined to be past due by the Department of Human Services may subsequently be enforced by indirect civil contempt proceedings.

C. An arrearage payment schedule set by a court or administrative order shall not exceed three (3) years, unless imposition of 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 8. AMENDATORY 43 O.S. 1991, Section 413, as last amended by Section 13, Chapter 323, O.S.L. 1998 (43 O.S. Supp. 1999, Section 413), is amended to read as follows:

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

1. In all ~~new or modified court or administrative~~ child support ~~orders~~ cases in which child support services are being provided under the state child support plan as provided under Section 237 of Title 56 of the Oklahoma Statutes, ~~the court or administrative hearing officer shall order~~ all payments ~~to~~ shall be paid through the Registry; and

2. In all other cases having court or administrative child support orders in which ~~were issued after January 1, 1994, and require immediate~~ support is being paid by income withholding, ~~the court or administrative hearing officer shall order all payments to be paid through the Registry unless:~~

~~a. both parties are represented by counsel and agree in writing to an alternative arrangement, or~~

~~b. the court determines that it is not in the best interest of the child.~~

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

B. When child support enforcement services are being provided under Section 237 of Title 56 of the Oklahoma Statutes, all monies owed for current child support and arrears shall continue to be paid through the Registry until current child support is no longer owed and all arrears have been paid in full, including cases in which the case has been closed by a recipient of services or the Department of Human Services pursuant to federal regulations.

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

~~C. After implementation of the Registry, all~~ D. All parties to a judgment, decree, or order in which requires payment of support is required by this section to be paid through the Registry or whose support is being paid through the Registry shall provide the Registry with their mailing address and residence address of record and shall provide in writing any changes in the mailing or residence address of record within thirty (30) days of changes in the address the change. Orders issued by the district or administrative court shall direct the parties to provide information regarding addresses

to the Registry. The Registry shall ~~give notice of~~ disclose the address change to the other parent or custodian; provided, information on the home address shall not be given if it is prohibited by a court order granted for the protection of a parent or custodian ~~who is a party to the divorce~~; provided further, in cases in which child support enforcement services are being provided under Section 237 of Title 56 of the Oklahoma Statutes, home addresses shall not be disclosed if the case has been given a Family Violence Indicator pursuant to the Department of Human Services' policy and federal regulations.

~~D. E.~~ Parties who ~~fail to comply with subsection C of this section~~ have been ordered or notified to make payments through the Registry may in subsequent child support actions be served with process by regular mail with a certificate of mailing from the United States Post Office, or in child support cases where services are being provided under the state child support plan, with a certificate of mailing from the child support representative, to the last address of record provided to the Registry.

F. All payments made through the Registry shall be allocated and distributed in accordance with Department of Human Services' policy and federal regulations.

SECTION 9. AMENDATORY 56 O.S. 1991, Section 240.2, as last amended by Section 20, Chapter 323, O.S.L. 1998 (56 O.S. Supp. 1999, Section 240.2), is amended to read as follows:

Section 240.2 A. After receiving a referral or application for services, the Division may initiate enforcement proceedings.

1. The Division may notify the obligor of the intention to initiate enforcement proceedings by a notice. If an income assignment is not in place for ~~current~~ collection of support monies, the Division shall immediately execute or issue a withholding order to any payor of income to the obligor. The ~~Division shall also give~~ notice of enforcement proceedings pursuant to this subsection ~~by~~

~~-serving the obligor~~ shall be served upon the obligor in the same manner prescribed for the service of summons in a civil action.

However, if a notice has been issued pursuant to Section 237A of this title, the notice of enforcement proceedings pursuant to this subsection may be served by regular mail with a certificate of mailing. The notice shall inform the obligor of the following:

- a. the amount of support monies owed, if any,
 - b. an assignment for ~~current~~ collection of support monies due and owing has commenced if a potential payor of income was known,
 - c. other enforcement actions that the Division may take to collect support monies owed,
 - d. the obligor may contest the allegations in the notice only with ~~regards~~ regard to mistakes of identity or the existence or the amount of support monies owed,
 - e. the assignment shall remain as long as the order upon which it is based is in effect. Payment of any support monies will not prevent an income assignment from taking effect, and
 - f. the obligor shall be required to keep the Division informed of the name and address of the current employer of the obligor and access to health insurance and other insurance policy information of the obligor.
2. a. An obligor may request a hearing pursuant to this section by delivering written notice to the District Office on a form provided which states the date and location of the hearing if requested on or before the fifteenth day from the date of service of the notice. On receipt of the hearing request, the Division shall promptly enter the appearance of the obligor on the administrative court hearing docket. The administrative court shall hear and determine the

matter and, unless the obligor successfully shows there is a mistake of identity or a mistake in the existence of current or delinquent child support, the administrative court shall enter a judgment, determine the amount of judgment payments, if any, and order the assignment of nonexempt earnings of the obligor pay the judgment and future monthly support payments.

- b. The administrative court may order an obligor to pay all costs involved in enforcement proceedings under this subsection and shall order interest as provided in Section 114 of Title 43 of the Oklahoma Statutes to be collected in the same manner as the payments upon which the interest accrued.
- c. The order shall be a final judgment for purposes of appeal. ~~The effect of the income assignment shall not be stayed on appeal except by order of the court pursuant to Section 240.3 of this title.~~
- d. The Division shall send a notice of the income assignment to the payor to effectuate the assignment pursuant to subsection D of this section.

B. If within fifteen (15) days of date of service of the notice, the obligor fails to request a hearing, pursuant to subsection A of this section, or after having requested a hearing fails to appear at the hearing, the administrative court shall enter an order granting judgment for arrearage, if any, establishing a judgment payment plan and approving the income assignment. The administrative order shall thereafter be subject to collection action and shall be filed, at the option of the Division, in the office of the court clerk in the county of residence of the custodian of the child, in the county of residence of the obligor, in the county of the underlying support order, or any other county in which the obligor has real or personal property. The

administrative order shall be enforced by the district court in the same manner as an order of the district court. A copy of the order shall be served upon the obligor by the District Office in accordance with subsection B of Section 2005 of Title 12 of the Oklahoma Statutes.

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

D. 1. The notice of the income assignment required pursuant to subsections A and B of this section shall be sent by the Division to the payor on the standardized form prescribed by the Secretary of Health and Human Services ~~for use in interstate cases~~. The notice shall be sent by certified mail, return receipt requested, or served in accordance with law. The payor shall be required to comply with the provisions of this subsection and the provisions stated in the notice. ~~The payor shall be notified of the following:~~

~~a. the effective date of the assignment~~ 2. The assignment shall take effect on the next payment of income to the obligor after the payor receives notice thereof and the amount withheld shall be sent to the Division within seven (7) days of the date upon which the obligor is paid. The payor shall attach to each payment a statement reporting the date on which the support obligation of the obligor was withheld~~7.~~

~~b. the amount to be withheld from the obligor's income each pay period for support monies~~ 3. The payor shall withhold each pay period the amounts specified in the notice from the obligor's income and earnings. The amount withheld by the payor from the obligor's earnings shall not exceed the limits on the percentage of an obligor's earnings which may be assigned for support pursuant to Section 1171.2 of Title 12 of the Oklahoma Statutes~~7.~~

~~e. the~~ 4. The income assignment is binding upon the payor until ~~modified by~~ released or until further order of the Division or the district or administrative court~~.~~

~~d. the~~ 5. The payor is liable for any amount up to the accumulated amount that should have been withheld if the payor fails to withhold in accordance with the provisions of the assignment~~,~~ notice.

~~e. two~~ 6. Two or more income assignments may be levied concurrently. Any current support due shall be paid before the payment of any arrearages or support debt judgment~~.~~

~~f. if~~ 7. If the amount of support due under the assignments exceeds the maximum amount authorized to be withheld from earnings by Section 1171.2 of Title 12 of the Oklahoma Statutes, the payor shall pay the amount due up to the statutory limit and shall send written notice to the ~~court,~~ Division ~~and~~ or the person ~~entitled to support~~ or agency designated to receive payments 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. the~~ 8. The payor shall notify the Division within ten (10) days of the date when the obligor is no longer employed by, being paid by, or providing services to the payor, and shall provide the Division with the obligor's last-known address and the name of the obligor's new employer or payor of income, if known~~.~~

~~h. if~~ 9. If the payor has no current or future income due to the obligor in his or her possession or control, or if the obligor is no longer employed by, being paid by, or providing services to the payor prior to the receipt of the notice required pursuant to subsection C of this section, the payor shall send written notice to the Division within ten (10) days of receipt of said notice. Failure to notify the Division within the required time limit may

subject the payor to liability for an amount up to the accumulated amount that is due and owing upon receipt of the notice~~7~~.

~~i. the~~ 10. The payor is liable for any amount up to the accumulated amount that should have been withheld and paid, and may also be fined not more than Two Hundred Dollars (\$200.00) for each failure to make the required deductions~~7~~, and if the payor:

- a. fails to withhold or pay the support in accordance with the provisions of the assignment notice, or
- b. fails to notify the person or agency entitled to support and the Division as required.

~~j. the~~ 11. The Division or the obligor may bring an action against the payor to enforce the provisions of the notice and this subsection in the underlying district court case or by separate proceeding in district court.

~~2.~~ 12. The payor may combine withheld amounts from income of two or more obligors in a single payment and separately identify that portion of the single payment which is attributable to each individual obligor.

~~3.~~ 13. An income assignment issued pursuant to the provisions of this section shall have priority over any prior or subsequent garnishments of the same income.

~~4.~~ 14. The payor may deduct from any income of the obligor a sum not exceeding Five Dollars (\$5.00) per pay period but not to exceed Ten Dollars (\$10.00) per month as reimbursement for costs incurred by the payor in complying with the income assignment.

~~5.~~ 15. The income assignment shall remain effective regardless of any change of a payor.

~~6.~~ 16. 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.~~ 17. The payor shall verify the obligor's address, employment, earnings, income, benefits, and dependent health insurance information upon the request of the Division.

~~8.~~ 18. The payor may not discipline, suspend, discharge, or refuse to promote an obligor because of an income assignment executed pursuant to this section. Any payor who violates this section shall be liable to such obligor for all income, wages, and employment benefits lost by the obligor from the period of unlawful discipline, suspension, discharge, or refusal to promote to the reinstatement or promotion.

E. Nothing in this section shall limit the authority of the Department to use its administrative powers conferred by law or regulations to collect delinquent support without the necessity of a court order.

F. 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.~~ G. 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 this state in which the support order was entered;
2. In the county in this state in which the obligee resides; or
3. In the county in this state in which the obligor resides or receives income.

~~G.~~ H. Any payment made pursuant to the provisions of this section by the payor shall be made payable to the Department or its designee, and in such manner as provided by the order or the notice.

~~H. 1. In the event the obligor is in arrears, any payment which exceeds the amount due for current support shall be applied to past due and unpaid amounts owed in the order in which the payments came due.~~

~~2. If an obligor is entitled to receive a refund, the Department shall send the excess amount to the obligor within ten (10) working days after the excess is determined.~~

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

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

~~K.~~ The Division shall distribute the monies due a person entitled to support who is not receiving Temporary Assistance for Needy Families within the time limit required by federal regulation.

SECTION 10. REPEALER 12 O.S. 1991, Section 1171.4, as amended by Section 4, Chapter 272, O.S.L. 1997 (12 O.S. Supp. 1999, Section 1171.4), is hereby repealed.

SECTION 11. This act shall become effective November 1, 2000.

Passed the Senate the 13th day of March, 2000.

President of the Senate

Passed the House of Representatives the ____ day of _____,
2000.

Speaker of the House of
Representatives