

ENROLLED SENATE  
BILL NO. 1520

By: Cain of the Senate

and

Blackburn and Pettigrew of  
the House

An Act relating to child support; amending 12 O.S. 1991, Sections 735 and 759, as amended by Sections 3 and 4, Chapter 320, O.S.L. 1997, 1171.3, as last amended by Section 5, Chapter 323, O.S.L. 1998 (12 O.S. Supp. 1999, Sections 735, 759, and 1171.3), which relate to executions on judgments and income assignment proceedings; making income assignment void after five years from judgment date without notice to payor; excluding judgments for child support from dormancy statute; extending period for enforcement of judgment by notice of income assignment; specifying form for notice of income assignment; modifying language; requiring payor to withhold amounts specified; deleting language relating to payment of more than one assignment; requiring payments through Centralized Support Registry; requiring specified notice to agency; providing for immediate income assignment in all child support cases in which state services are being provided; amending 43 O.S. 1991, Section 111.1, as amended by Section 1, Chapter 301, O.S.L. 1999, 112, as last amended by Section 2, Chapter 301, O.S.L. 1999, 135, 137, and Section 4, Chapter 279, O.S.L. 1992, as last amended by Sections 11, 12, and 13, Chapter 323, O.S.L. 1998 (43 O.S. Supp. 1999, Sections 111.1, 112, 135, 137, and 413), which relate to visitation, care and custody of children, lien for arrearage in child support payments and judgments, and payment procedures of the Oklahoma Centralized Support Registry Act; clarifying language; deleting exception for good cause; including medical support for repayment to the Department of Human Services; expanding cases in which DHS is a necessary party; making child support judgments a lien on real and personal property by operation of law; providing for lien upon any real property acquired by obligor; requiring filing of notice of lien on real property; providing for determination of amount and dormancy of lien on real property; providing for lien upon lump sum payment of workers' compensation benefits; providing for initiation of proceeding by obligee for payment of workers' compensation benefits to obligor; providing for extension of judgment lien upon real property; requiring certain child support cases to be paid through the Centralized Support Registry; requiring

certain parties to provide address of record to Centralized Support Registry; prohibiting disclosure of addresses under certain circumstances; specifying cases which service of process may be made by certified mail to last address of record provided to Registry by party; requiring payments through Registry be allocated pursuant to Department of Human Services' policy and federal regulation; amending 56 O.S. 1991, Sections 237, as last amended by Section 15, Chapter 323, O.S.L. 1998, Section 16, Chapter 323, O.S.L. 1998, Section 3, Chapter 153, O.S.L. 1992, 240, as renumbered by Section 14, Chapter 365, O.S.L. 1994, and as last amended by Section 17, Chapter 323, O.S.L. 1998, 238.5A, 240.1, as last amended by Section 19, Chapter 323, O.S.L. 1998, 240.2, as last amended by Section 20, Chapter 323, O.S.L. 1998, Sections 4, 6 and 7, Chapter 354, O.S.L. 1995, and Sections 30, 32, and 33, Chapter 402, O.S.L. 1997 (56 O.S. Supp. 1999, Sections 237, 237A, 237.3, 237.7, 240.1, 240.2, 240.15, 240.17, 240.18, 240.22E, 240.22G and 240.23), which relate to assistance provided to children by Department of Human Services Child Support Enforcement Division, notice of enforcement proceeding, revocation or suspension of licenses for noncompliance with support order and financial institutions data match reporting system; conforming language; changing condition for transfer of child support obligation; modifying contents of notice of assignment or application; deleting obsolete language; clarifying language; modifying contents of specified notice to obligor; providing for service of specified notice on custodian by regular mail; limiting obligor's ability to contest contents of certain notice under certain circumstances; providing for state representation by attorneys contracting with the Department of Human Services Child Support Enforcement Division; modifying definition; updating statutory reference; deleting fee for child support services; requiring obligor to pay child support services fee under certain circumstances; allowing for service of specified notice by certified mail; deleting authority for stay on appeal of income assignment; providing for liability of payor of income assignment under certain circumstances; clarifying authority of Department of Human Services to collect support without court order; deleting requirements for application of overpayments and refunds; providing for nonissuance or nonrenewal of driver license and driving privileges of obligor; providing for service of notice relating to driving privileges by regular mail; reducing time period for response to notice or request for hearing; limiting judicial review of Department of Human Services determinations to record of administrative proceedings; exempting financial institution from liability for disclosure of Child Support Enforcement levy after freezing accounts;

clarifying language; allowing Department of Human Services to implement income withholding by notice to any payor of income to obligor; repealing 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), which relates to payments pursuant to income assignments; and providing an 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~~ A. A judgment shall become unenforceable and of no effect if, 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:

1. Execution is not issued by the court clerk and filed with the county clerk as provided in Section 759 of this title, ~~or a;~~

2. 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;~~

3. A garnishment summons is not issued by the court clerk ~~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

4. A certified copy of a notice of income assignment is not sent to a payor of the judgment debtor.

B. A judgment shall become unenforceable and of no effect if more than five (5) years ~~has~~ have passed from the date ~~that the~~ of:

1. The last execution on the judgment was filed with the county clerk, ~~or the;~~

2. The last notice of renewal of judgment was filed with the court clerk, ~~or the date that the;~~

3. The last garnishment summons was issued, ~~the judgment shall become unenforceable and of no effect; provided, this; or~~

4. The sending of a certified copy of a notice of income assignment to a payor of the judgment debtor.

C. 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, a certified copy of one of the following shall must 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 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 the United States Department 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 income 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~~7.~~

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

3. Each pay period the payor shall withhold 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~~7.~~

~~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~~7.~~~~

~~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 all income assignments against the obligor 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~~7.~~

~~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 date~~ 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~~7~~.

~~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 or agency 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~~7~~, ~~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 income 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 regulations.

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 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 Section 4, Chapter 279, O.S.L. 1992, 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 ~~court or administrative child support orders~~ cases 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 child support shall continue to be paid through the Registry until child support is no longer owed.

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 his or her 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 237, as last amended by Section 15, Chapter 323, O.S.L. 1998 (56 O.S. Supp. 1999, Section 237), is amended to read as follows:

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

B. The Department is authorized to:

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

2. ~~Promulgate~~ Adopt rules ~~to provide for~~ 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; and

5. Require agencies and political subdivisions of ~~the this~~ state, ~~county, or municipality~~ its counties and municipalities, persons, sole proprietorships, corporations, utilities, partnerships, associations, organizations, and other legal entities doing business in this state to provide information to the Child Support Enforcement Division to assist in locating individuals and in establishing and enforcing court orders.

C. 1. An applicant for or recipient of Temporary Assistance for Needy Families, hereinafter referred to as "recipient", shall be required to assign to the Department any rights ~~of to~~ 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 in accordance with federal regulations and state law.

2. When an order has been entered which provides for payment of child support and the obligee pursuant to the order relinquishes physical custody of the child to another custodian, without obtaining a modification of the order to change custody or to redirect the support to the new custodian, the relinquishment shall transfer the child support obligation pursuant to the order to the new custodian or the Department if ~~an assignment of support rights has been made~~ services are being provided under the state child support plan as provided in this section. The transfer of the obligation shall terminate when the new custodian no longer has physical custody of the child, except for the amount of unpaid support still owing to the custodian or to the Department ~~pursuant to an assignment~~.

3. In all cases in which support services are being provided under the state child support plan as provided in this section, support payments shall be made by the obligor to the Department or its designee. If a court has ordered support payments to be made to the recipient or to the applicant, the Department may send a notice of the assignment or application to the obligor requiring that all support payments be made to the Division or its designee. The notice shall include:

- a. a statement that the assignment or application has been made,
- b. ~~the name of the child for whom support has been ordered by the court and the name of the recipient or custodian of the child,~~
- c. the style and ~~cause~~ number of the case in which support was ordered,

- d. c. a statement that all payments so ordered shall be made to the Department or its designee, and
- e. d. a statement that ~~a notice of income assignment will be sent to the obligor's employer or other payor of income~~ the obligor's earnings and income are assigned for collection of support monies owed.

4. A notice to redirect the payments shall be sent to the obligor by regular mail with proof of mailing from the United States Postal Service. If, after notice of the redirection, the obligor does not make payments to the Department as provided in the notice, the payments shall not be credited to the amount owed. The obligor shall notify the Department of any change of address, the name and address of the current employer, and access to health insurance and other insurance policy information within thirty (30) days of any change.

~~5. Effective October 1, 1998, or upon implementation of the Centralized Support Registry, whichever occurs first, the notice provided for in paragraph 3 of this subsection shall be replaced by the notice provided for in Section 16 of this act.~~

D. When the right to receive support ~~rights have~~ has been assigned to the Child Support Enforcement Division or upon proper application by an obligor or by an individual not receiving Temporary Assistance for Needy Families, the Division may petition the district court or the Office of Administrative Hearings: Child Support, an administrative court of the Department of Human Services, for an order:

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

2. Establishing paternity;

3. Requiring medical support, child support, or other support;

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

5. Requiring that the obligor keep the Division informed of the name and address of the current employer of the obligor and of any health insurance or other insurance policy information of the obligor within thirty (30) days of any change;

6. ~~Making~~ Providing for collection and distribution of child support monies; and

7. Assisting in the location of absent parents and their assets, in cooperation with federal agencies, other agencies of this state and of other states, territories, and foreign nations

requesting assistance with the enforcement of support orders entered in the United States and elsewhere.

E. The Division may petition the district or administrative court to modify any order for support regardless of whether there has been a change of circumstances.

F. A reasonable fee and costs may be assessed for services to individuals not receiving Temporary Assistance for Needy Families ~~under~~ pursuant to rules adopted by the Department.

~~F.~~ G. Child support payments made to the Division pursuant to this section shall be deposited in the Child Support Escrow Account for distribution as may be required by Section 235 of this title, or by 42 U.S.C., Section 651 et seq. Fees or reimbursements of costs collected by the Department shall be deposited in the Administration Fund of the Department and may be used and expended by the Department for the purposes of carrying out the provisions of this section.

~~F.~~ H. Except as otherwise authorized by law, all files and records concerning the assistance and services provided under this section or concerning a putative father of a child born out of wedlock are confidential. Release of information from the files and records shall be restricted to purposes directly connected with the administration of the child support collection, paternity determination, parent location, or Temporary Assistance for Needy Families programs. Information may be released to public officials under rules adopted by the Department, consistent with federal rules or regulations.

SECTION 10. AMENDATORY Section 16, Chapter 323, O.S.L. 1998 (56 O.S. Supp. 1999, Section 237A), is amended to read as follows:

Section 237A. A. ~~Effective October 1, 1998, or upon implementation of the Centralized Support Registry provided for in Section 413 of Title 43 of the Oklahoma Statutes, hereafter referred to as the Registry, whichever occurs first, in~~ In all cases being enforced by the Department of Human Services pursuant to the state child support plan, the Department shall serve a notice upon the obligor no less than once every twelve (12) months informing the obligor of the following:

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

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

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

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

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

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

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

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

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

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

11. A list of all actions and remedies the Department may take to enforce the order and to collect past due support. The list may include a specific payment plan;

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

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

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

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

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

B. The notice shall be filed, at the option of the Department, with the clerk of the district court in the county of residence of the custodian of the child, in the county of residence of the obligor, or in the county of the underlying support order or in any other county in which the obligor has real or personal property.

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

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

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

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

3. If the obligor fails to request a timely administrative review, or fails to appear for a review or an administrative hearing, the obligor may no longer contest the contents of the notice, and ~~thereafter~~ the obligor shall be obligated to make payments pursuant to the payment plan as stated in the notice to collect the past due support and those amounts shall be subject to income withholding. The notice shall have the same legal effect as a court order and be enforceable as a court order. The notice with proof of service upon the obligor and the custodian of the child shall be filed, at the option of the Department, with the clerk of the district court in the county of residence of the custodian of the child, in the county of residence of the obligor, in the county of the underlying support order, or in any other county in which the obligor has real or personal property.

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

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

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

SECTION 11. AMENDATORY Section 3, Chapter 153, O.S.L. 1992 (56 O.S. Supp. 1999, Section 237.3), is amended to read as follows:

Section 237.3 A. Attorneys employed by or contracting with the Department of Human Services 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., or attorneys acting for ~~said~~ the Department 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 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 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.

SECTION 12. AMENDATORY 56 O.S. 1991, Section 240, as renumbered by Section 14, Chapter 365, O.S.L. 1994, and as last amended by Section 17, Chapter 323, O.S.L. 1998 (56 O.S. Supp. 1999, Section 237.7), is amended to read as follows:

Section 237.7 For the purposes of Sections ~~238~~ 237 through 240.23 of this title:

1. The "Child Support Enforcement Division of the Department of Human Services", hereinafter referred to as the "Division" or as the "Department", is the state agency designated to administer the child support enforcement program for the State of Oklahoma and its District Offices, which may be administered through contract or cooperative agreements. The District Offices provide enforcement services to individuals receiving Temporary Assistance for Needy Families, hereinafter referred to as "TANF", and to individuals not receiving TANF who have made proper application for enforcement services to the Division;

2. "Director" means the Director of the Department of Human Services who shall have the authority to enter orders in appropriate cases or as otherwise provided by law, without the necessity of an additional signature of a district or administrative judge;

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

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

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

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

7. a. "Gross income" or "income" means income from any source and includes, but is not limited to, income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, rent, interest income, trust income, annuities, compensation as an independent contractor, social security benefits, workers' compensation benefits, unemployment insurance

benefits, disability insurance benefits, gifts, prizes, any form of periodic payment to an individual regardless of source, and any other payments made by any person, private entity, federal or state government, any unit of local government, school district, or any entity created by law. Income specifically excluded are actual child support received for children not before the court and benefits received from means-tested public assistance programs, including but not limited to TANF, Supplemental Security Income (SSI), Food Stamps, General Assistance and State Supplemental Payments for Aged, Blind, and the Disabled.

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

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

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

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

11. "Obligee" or "Person entitled" means:

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

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

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

14. "Income assignment" ~~is~~ means an assignment of a portion of the monies, income, or periodic earnings due and owing to the obligor to the person entitled to the support or to another person or entity designated by the support order or assignment for payment of support, the support debt, or arrearages. In all child support ~~orders~~ cases wherein child support is being enforced pursuant to the state plan, the income of any obligor required by court or administrative order to pay support shall be subject by operation of law to immediate income assignments regardless of whether support payments by such obligor are in arrears. The assignment shall be in an amount which is sufficient to meet the monthly periodic child support payments, other maintenance payments, payments on support debt and ~~arreages, or other maintenance payments imposed by the collection of past due support monies that have accrued under a district or administrative court order.~~ The An income assignment shall be made a part of a support order or any order granting a judgment for a support debt or arrearages confirming the amount of the past due support, or a review or modification of a support order pursuant to Section 118.1 of Title 43 of the Oklahoma Statutes;

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

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

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

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

19. "Commission" means the Commission for Human Services;

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

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

SECTION 13. AMENDATORY 56 O.S. 1991, Section 238.5A, is amended to read as follows:

Section 238.5A The amount of child support and other support shall be ordered and reviewed in accordance with the child support guidelines provided in Section ~~1277.7~~ 118 of Title ~~12~~ 43 of the Oklahoma Statutes.

SECTION 14. AMENDATORY 56 O.S. 1991, Section 240.1, as last amended by Section 19, Chapter 323, O.S.L. 1998 (56 O.S. Supp. 1999, Section 240.1), is amended to read as follows:

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

- a. initiate enforcement proceedings to:
  - (1) obtain a judgment for arrearages,
  - (2) effectuate an income assignment,
  - (3) receive current support and judgment payments, and
  - (4) review and modify support orders pursuant to child support guidelines in Section 118 of Title 43 of the Oklahoma Statutes, and
- b. initiate any other legal proceeding to implement the establishment and collection of support and other court-ordered requirements of support from an obligor including, but not limited to, medical expenses, insurance premiums, and child care costs.

~~2. A reasonable fee and costs may be assessed for providing child support enforcement services pursuant to rules promulgated by the Department. The fee, not to exceed Twenty-five Dollars (\$25.00), shall be paid by the applicant and such other costs shall be in addition to the amount withheld pursuant to the income assignment. In any hearing on a notice of delinquency or other enforcement proceeding, the district or administrative court may~~

include the amount of the child support services fee paid by the applicant in any judgment against the obligor.

B. The Division is authorized to initiate enforcement proceedings and receive payments pursuant to Section 237A and 240.2 of this title to effectuate an income assignment and payment plan for:

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

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

C. ~~1.~~ Upon application by an obligor who requests support enforcement services from the Department, the Division is authorized to initiate any proceedings necessary to provide support enforcement services to the obligor and to receive payments of the support obligation or any judgment.

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

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

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

SECTION 15. AMENDATORY 56 O.S. 1991, Section 240.2, as last amended by Section 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~~ a form prescribed by the Secretary of the United States Department 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.

~~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.

~~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.

~~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, ~~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 rules 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 shall be in such manner form of payment 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 16. AMENDATORY Section 4, Chapter 354, O.S.L. 1995 (56 O.S. Supp. 1999, Section 240.15), is amended to read as follows:

Section 240.15 A. 1. Except as otherwise provided by this section, the Department of Human Services is authorized to order the revocation ~~or~~, suspension, nonissuance, or nonrenewal of a license and driving privileges or placement of an obligor on probation who is not in noncompliance compliance with an order for support.

2. If the obligor is a licensed attorney, the Department may report the matter to the Oklahoma Bar Association for appropriate action in accordance with the rules of professional conduct.

3. Pursuant to Section ~~44~~ 6-201.1 of ~~this act~~ Title 47 of the Oklahoma Statutes, the Department of Human Services is hereby authorized to order the revocation ~~or~~, suspension, nonissuance, or nonrenewal of a driver license and driving privileges of an obligor who is in noncompliance with an order of support. In addition the Department of Human Services may, in cases of extreme and unusual hardship, provide for a modification of the revocation, ~~or~~, suspension, nonissuance, or nonrenewal of the driver license and driving privileges of an obligor who is in noncompliance with an order of support.

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

B. 1. Whenever the Department of Human Services determines that an obligor may be in noncompliance with an order for support, before proceeding ~~to revoke or suspend~~ with revocation, suspension, nonissuance, or nonrenewal of a license and driving privileges of an obligor or ~~place~~ placing the obligor on probation, the Department of Human Services shall issue a notice of intent ~~to suspend or revoke~~ of revocation, suspension, nonissuance, or nonrenewal of the license

and driving privileges of the obligor or place placing the obligor on probation.

2. The notice shall be served upon the obligor personally or by certified mail in the same manner as provided for in Section 2004 of Title 12 of the Oklahoma Statutes; or, if notice has been issued pursuant to Section 237A of this title, the notice provided in this section may be served by regular mail with an affidavit of mailing by the child support representative to the address of record on file with the Centralized Support Registry.

3. The notice shall state that the obligor's license will be suspended or revoked or the obligor placed on probation ~~thirty (30)~~ twenty (20) days after service unless within that time the obligor:

- a. pays the entire past-due support as stated in the notice,
- b. enters into a payment plan approved by the Department, or
- c. appears and shows cause in a hearing before the Department that suspension or revocation of a license or probation is not appropriate~~+~~.

C. To show cause why suspension or revocation of a license or probation would not be appropriate, the obligor shall request a hearing from the Department. The request shall be made in writing within ~~thirty (30)~~ twenty (20) days of the date of service of the notice.

D. Upon receipt of a request for hearing from an obligor, the Department shall schedule a hearing for the purpose of determining if suspension or revocation of the obligor's license or probation is appropriate.

E. The only issues that may be determined in a hearing under this section are whether or not the obligor is in noncompliance with an order for support, and whether or not the obligor has entered or will enter into a payment plan. Where a payment plan is entered into the Department may provide for probation pursuant to Section § 240.16 of this ~~act~~ title.

F. If an obligor fails to respond to a notice of intent to order the suspension ~~or~~, revocation, nonissuance, or nonrenewal of a license and driving privileges of the obligor or probation, fails to timely request a hearing, or fails to appear at a regularly scheduled hearing, the obligor's defenses, objections, or request for a payment plan shall be considered to be without merit, and the Department shall enter a final decision and order accordingly.

G. If the Department determines that the obligor is in noncompliance with an order for support and that the obligor has not entered into a payment plan, the Department shall issue an order suspending or revoking for the revocation, suspension, nonissuance, or nonrenewal of the obligor's license and driving privileges and ordering the obligor to refrain from engaging in the licensed

activity or shall issue an order placing the obligor on probation. The Department shall send a copy of the order of ~~suspension or revocation~~, suspension, nonissuance, or nonrenewal of a license and driving privileges or of probation to the licensing board and to the obligor.

H. The determinations of the Department pursuant to this section are a final agency decision and are subject to judicial review pursuant to Section 240.3 of ~~Title 56 of the Oklahoma Statutes~~ this title. Judicial review shall be confined to the record of the administrative proceedings.

I. A determination made by the Department pursuant to this section is independent of any proceeding of the licensing board to suspend, revoke, deny, terminate, or renew a license.

J. The Department has the authority to order the ~~suspension or revocation~~, suspension, nonissuance, or nonrenewal of a license and driving privileges or the placement of an obligor on probation without any action by the licensing board. The licensing board shall, upon receipt of an order issued by the Department, ~~suspend or revoke~~, suspend, or refuse to renew or reissue the license and driving privileges of the named individual or place the obligor on probation.

K. For purposes of this section and Sections ~~5~~ 240.16 through ~~11~~ 240.21 of this ~~act~~ title and Section 6-201.1 of Title 47 of the Oklahoma Statutes, the term "noncompliance with an order for support" means that the obligor has failed to make child support payments required by a child support order in an amount equal to the child support payable for at least ninety (90) days, has failed to make full payments pursuant to a court-ordered payment plan for at least ninety (90) days or has failed to obtain or maintain health insurance coverage for at least ninety (90) days as required by a support order.

SECTION 17. AMENDATORY Section 6, Chapter 354, O.S.L. 1995 (56 O.S. Supp. 1999, Section 240.17), is amended to read as follows:

Section 240.17 A. When the Department of Human Services determines that the support debt, past-due support, or support obligation is paid in full, it shall terminate the order of ~~suspension or~~, revocation, nonissuance, or nonrenewal of the license or the order of probation. The Department shall send a copy of ~~said~~ the order to the board, the obligor, and the person entitled to child support.

B. Entry of ~~such~~ an order pursuant to subsection A of this section does not limit the ability of a Department to issue a new order of suspension or revocation of the license of the same obligor or place the obligor on probation in the event of another delinquency.

SECTION 18. AMENDATORY Section 7, Chapter 354, O.S.L. 1995 (56 O.S. Supp. 1999, Section 240.18), is amended to read as follows:

Section 240.18 The Department of Human Services shall not lift the suspension ~~or~~, revocation, nonissuance, or nonrenewal of the license or probation of an obligor until the obligor files with the Department proof ~~showing that he is~~ of current ~~in his~~ payments as required by the Department. Before the Department may terminate probation or remove a suspension ~~or~~, revocation, nonissuance, or nonrenewal, the Department shall provide written notice by certified mail, return receipt requested, to the person entitled to child support informing ~~such~~ that person that the obligor has proven to the satisfaction of the Department that the obligor is current in ~~his~~ payments. ~~Such~~ The notice shall ~~also~~ include an opportunity for the person entitled to child support to protest ~~such~~ the termination or removal upon a claim and proof that the obligor is not current in ~~his~~ payments. A protest must be commenced within ~~thirty (30)~~ twenty (20) days of receipt of the notice.

SECTION 19. AMENDATORY Section 30, Chapter 402, O.S.L. 1997 (56 O.S. Supp. 1999, Section 240.22E), is amended to read as follows:

Section 240.22E A. Unless otherwise required by applicable law, a financial institution furnishing a report or providing information to the Department pursuant to this act shall not disclose to a depositor or an account holder that the name of such person has been received from or furnished to the Department; provided, however, that a financial institution may disclose to its depositors or account holders that under the financial data match reporting system the Department has the authority to request certain identifying information on certain depositors or account holders.

B. If an institution willfully violates the provisions of this section, such financial institution shall pay to the Department the lesser of One Thousand Dollars (\$1,000.00) or the amount on deposit or in the account of the person to whom such disclosure was made.

C. A financial institution shall incur no obligation or liability to a depositor or account holder or any other person arising from the furnishing of a report or information pursuant to this act.

D. A financial institution shall incur no obligation or liability to a depositor or account holder or any other person arising from the furnishing of information to the depositor or account holder that the Child Support Enforcement Division has issued a levy on the depositor's or account holder's assets in that financial institution if the financial institution advises the depositor or account holder of the levy after the financial institution has frozen all accounts of the depositor or account holder pursuant to Section 240.22G of this title.

E. A financial institution may charge an account levied on by the Department of Human Services a fee, as determined by the Department, of not less than Twenty Dollars (\$20.00) nor more than Fifty Dollars (\$50.00) which shall be deducted from such account prior to remitting any funds to the Department.

~~E.~~ F. Any individual who knowingly makes an unauthorized disclosure of financial records pursuant to this act shall upon conviction thereof, be fined up to One Thousand Dollars (\$1,000.00) and shall be subject to civil proceedings for such violation of privacy.

SECTION 20. AMENDATORY Section 32, Chapter 402, O.S.L. 1997 (56 O.S. Supp. 1999, Section 240.22G), is amended to read as follows:

Section 240.22G Upon matching a delinquent obligor with a financial account, the Division shall automatically issue a levy for each match account.

1. Such levy shall be valid for sixty (60) days. Upon receipt of any levy, the financial institution shall:

- a. immediately freeze all accounts of the obligor, up to the amount of the lien,
- b. hold funds in the accounts for twenty-one (21) days before remitting payment to the Division, and
- c. notify the Division if an account has been closed.

2. ~~The~~ Except as provided in Section 240.22E of this title, the financial institution shall not disclose information to the depositor or account holder ~~pursuant to Section 30 of this act.~~ Within three (3) working days after levy is sent to the financial institution, the Division shall send the levy to the obligor, with a notice that the obligor has ten (10) days to request an administrative review of the levy.

3. Twenty-one (21) days after receiving the levy, the financial institution shall remit funds, up to the amount of the lien, to the Division, unless the Division has notified the institution that the levy has been released in part or in full. The financial institution shall remit any additional deposit made to a levied account, up to the amount of the levy, for a period of sixty (60) days after receiving the levy.

SECTION 21. AMENDATORY Section 33, Chapter 402, O.S.L. 1997 (56 O.S. Supp. 1999, Section 240.23), is amended to read as follows:

Section 240.23 A. The Division has the authority to enter orders in the following actions over the signature of the Director and without the necessity of obtaining an additional signature of a district or administrative court judge:

1. To subpoena any financial or other information needed to establish, modify, or enforce a support order and to impose penalties for failure to respond to ~~such a~~ subpoena; provided, that the subpoena shall comply with the provisions of Section 2204 of Title 6 of the Oklahoma Statutes;

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

- a. intercepting or seizing periodic or lump-sum payments from:
  - (1) a state or local agency, including unemployment compensation, workers' compensation, and other benefits, and
  - (2) judgments, settlements, and lotteries,
- b. attaching and seizing assets of the obligor held in financial institutions,
- c. attaching public and private retirement funds, and
- d. imposing liens in accordance with Section 135 of Title 43 of the Oklahoma Statutes;

3. To increase the monthly payment ~~on~~ of child support, for purposes of securing overdue support, in an amount not to exceed five percent (5%) of the total child support order. ~~Such~~ This increase may not be made more than once every twelve (12) months;

4. If an income assignment is not ordered or in place by operation of law for current collection of support monies, the Division is authorized to send implement income withholding by sending a notice of income assignment for ~~current~~ support to any payor of income to the obligor; and

5. To require both parents to appear for genetic testing in cases where paternity has not been established or admitted. The Division shall send notice to the putative father containing information on how to appear and admit paternity or object to the order for genetic testing. ~~Such an~~ An objection to genetic testing shall require the putative father to complete an affidavit contesting paternity on ~~such a~~ a form ~~as~~ prescribed by the Division.

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

SECTION 22. 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 23. This act shall become effective November 1, 2000.

Passed the Senate the 22nd day of May, 2000.

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President of the Senate

Passed the House of Representatives the 24th day of May, 2000.

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Speaker of the House of  
Representatives