STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 675 By: Cain

COMMITTEE SUBSTITUTE

[marriage and family - amending various sections relating to child support – repealers - effective date –
emergency]

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

SECTION 1. AMENDATORY 10 O.S. 1991, Section 1121, as renumbered by Section 199, Chapter 352, O.S.L. 1995, and as last amended by Section 19, Chapter 353, O.S.L. 1996 (10 O.S. Supp. 2000, Section 7003-8.7), is amended to read as follows:

Section 7003-8.7 A. In any postadjudicatory hearing concerning the status of a child, the court, if the court determines the parent is able to pay, shall order the parents of any child found to be a deprived child to:

1. Pay for the care and maintenance of the child, including, but not limited to, all or some part of placement services, medical care and mental health services, as authorized by law. If there is an existing order for support, the existing order shall remain in effect unless the court finds the order is not in the best interests of the child involved. If the court finds the order is not in the best interests of the child, or there is not an existing order for the parent to pay support, the court shall, pursuant to Sections 118 and 119 of Title 43 of the Oklahoma Statutes, determine the amount the parent is to pay for the care and maintenance of the child and issue an order describing the court's finding. The court shall

order the parent to provide medical insurance whenever the parent has insurance available through employment or other group plan, regardless of whether insurance is available at the time the order is entered. The support order shall contain an immediate income assignment provision pursuant to Section 115 of Title 43 of the Oklahoma Statutes. A child support computation form as provided for in Section 120 of Title 43 of the Oklahoma Statutes shall be signed by the judge and incorporated as a part of the child support order. The support order shall be a separate order and shall not be confidential. The support order may be modified upon a material change in circumstances. The support order may be enforced by any method allowed by law. After the juvenile action is dismissed, the support order shall continue to be enforced for current support and for arrears, unless the court orders otherwise;

2. Reimburse the Department of Human Services, in whole or in part, for any costs and expenses incurred by the Department in providing any services or authorizing actions taken pursuant to the Oklahoma Children's Code for the child;

3. Reimburse any law enforcement agency, in whole or in part, for any costs or expenses incurred by the law enforcement agency for protective custody services or other authorized actions taken pursuant to the Oklahoma Children's Code; and

4. Reimburse the court fund, in whole or in part, for any disbursements made from the court fund in conjunction with the case, including, but not limited to, court-appointed attorney fees, expert witness fees, sheriff's fees, witness fees, transcripts and postage.

B. 1. After a judicial determination that the parent of the child is able to pay, in whole or in part, the costs and reimbursements specified by this section, the court shall order payment of the costs and reimbursements. The court may order such payments and reimbursements to be paid in installments and shall set the amount and due date of each installment.

2. When any parent is financially able but has willfully failed to pay the costs and reimbursements as ordered by the court pursuant to this section, the parent may be held in contempt of court and, upon conviction, shall be punished pursuant to Section 566 of Title 21 of the Oklahoma Statutes.

3. Even though the court has previously found the parent indigent, if a parent is subsequently found to be financially able to pay costs and reimbursements, the court shall require payment of costs and reimbursements required by this section. The court may order such costs and reimbursements to be paid in installments.

C. The court shall have all powers incident to such orders necessary for their enforcement, including the power and authority to require bond or other security for the payment of such order; and may resort to execution and the power of punishment for contempt for noncompliance with such order.

D. The court shall have the right to increase, decrease, or otherwise modify its orders for care and maintenance, as the conditions or needs of the child or children may require and the ability of the person or persons held to pay may afford.

E. 1. The court may order support payments to be made direct to the person, organization or institution having the care and custody of the child or children, or directly to the clerk of the court.

2. All such funds ordered and paid to the clerk shall be accounted for; provided, that when payments are made in advance for any child, and custody of the court is terminated before the end of the period, then the clerk may refund, by proper voucher, the unused or unaccrued portion of such payment; or the refund may be authorized and paid on claim properly verified and approved by the judge.

F. 1. The Department may effectuate an order for payment of any costs and expenses authorized pursuant to this section against

any asset of the parent. Any assignment, attachment, garnishment, or lien against such assets shall be served upon the person in possession of the assets or shall be recorded in the office of the county clerk in the county in which the parent resides or in which the asset is located.

2. Pursuant to the provisions of Section 236 of Title 56 of the Oklahoma Statutes, the Department may contract on a contingency fee basis with private attorneys for the collection and enforcement of orders against such assets. Any such third-party payment shall be paid directly to the Department.

SECTION 2. AMENDATORY Section 1, Chapter 27, O.S.L. 1994, as amended by Section 6, Chapter 323, O.S.L. 1998 (36 O.S. Supp. 2000, Section 6058A), is amended to read as follows:

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

1. The child was born out of wedlock;

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

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

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

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

2. Permit the custodial person, the designated agency administering the State Medicaid Program, or the provider with

approval, to submit claims for covered services without the approval of the noncustodial parent; and

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

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

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

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

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

a. the court or administrative order is no longer in effect, or

b. the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of disenrollment.

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

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

F. If 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 Child Support Enforcement Division shall notify the parent's employer to enroll the child in health care coverage available under the employer's plan by sending the employer a National Medical Support Notice issued pursuant to Section 466(a)(19) of the Social Security Act, and Section 609(a)(5)(C) of the Employee Retirement Income Security Act of 1974, as soon as the National Medical Support Notice is promulgated by the United States Department of Health and Human Services. The insurer, upon receipt from the employer of Part B of the National Medical Support Notice to Plan Administrator, shall be required to comply with Part B of the National Medical Support Notice.

SECTION 3. AMENDATORY Section 11, Chapter 402, O.S.L. 1997 (43 O.S. Supp. 2000, Section 112A), is amended to read as follows:

Section 112A. ~~By October 1, 1998, the~~ A. 1. The Child Support Enforcement Division of the Department of Human Services shall ~~enter into an agreement with the Administrative Office of the Courts to obtain necessary information to~~ maintain a central case registry on all Title IV-D cases and all child support orders established or modified in this state after October 1, 1998.

~~Necessary information shall include:~~

~~1. Names, social security numbers, dates of birth for both parents, and case identification numbers;~~

~~2. The amount of periodic support owed under the order, and other amounts, including arrearages, interest, or other fees, due or overdue under the order;~~

~~3. Amounts of support that have been collected;~~

~~4. The name and birth date of any child for whom support is ordered; and~~

~~5. The amount of any lien imposed pursuant to Section 15 of this act~~ Title IV-D cases are 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.

2. In Title IV-D cases, the case registry shall include, but not be limited to, information required to be transmitted to the federal case registry pursuant to 42 U.S.C., Section 654A.

3. In cases in which child support services are not being provided under the state child support plan as provided under Section 237 of Title 56 of the Oklahoma Statutes and in which a child support order is established or modified in this state after October 1, 1998, the case registry shall include, but not be limited to, information required to be transmitted to the federal case registry pursuant to 42 U.S.C. Section 654A and information from the support order summary form provided for in Section 120 of Title 43.

B. All parties and custodians subject to a judgment, decree, or order which is part of the central case registry as specified in this section shall provide the central case registry with an address of record for service of process in support, visitation and custody actions, and shall provide in writing any changes in the address of record within thirty (30) days of the change. This address may be different from the party or custodian's physical address. Orders issued by the district or administrative court shall direct the parties and custodians to provide an address of record for service

of process to the central case registry. The address of record is subject to disclosure to a party or custodian upon request pursuant to the provisions of this section and rules promulgated by the Department of Human Services. The Department of Human Services may refuse to disclose address and location information if the Department has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to a party, custodian or child.

C. All parties to a judgment, decree, or order which is part of the central case registry as specified in this section, 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 central case registry.

D. The Department of Human Services shall adopt rules as necessary to implement the provisions of this section.

SECTION 4. AMENDATORY Section 15, Chapter 356, O.S.L. 1994, as amended by Section 9, Chapter 323, O.S.L. 1998 (43 O.S. Supp. 2000, Section 118.2), is amended to read as follows:

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

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

2. If the parent is enrolled but fails to make application to obtain coverage of the child, to enroll the child under family coverage and to deduct the cost of the coverage from the employee's wages, unless the employer currently pays for the cost or portion of

dependent coverage, upon application by the child's custodial person, by the state agency administering the Medicaid program or the state agency administering the child support program under Title IV-D of the Social Security Act;

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

a. the court order is no longer in effect,

b. the child is or will be enrolled in comparable coverage which will take effect no later than the effective date of disenrollment, or

c. the employer has eliminated family health coverage for all of its employees;

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

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

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

B. If 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 Child Support Enforcement Division shall notify the parent’s employer to enroll the child in health care coverage available under the employer’s plan by sending the employer

a National Medical Support Notice issued pursuant to Section 466(a)(19) of the Social Security Act, and Section 609(a)(5)(C) of the Employee Retirement Income Security Act of 1974. The employer shall be required to comply with the National Medical Support Notice.

SECTION 5. AMENDATORY 43 O.S. 1991, Section 135, as last amended by Section 6, Chapter 384, O.S.L. 2000 (43 O.S. Supp. 2000, 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.

C. A judgment or order providing for the payment of current support or an arrearage of child support shall be a lien upon real property owned by the person obligated to pay support 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. ~~The~~ If 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 amount reflected in the official records of 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~~ regardless of the amount reflected 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 statement of judgment is filed of record with the county clerk unless 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~~ IV-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 6. AMENDATORY Section 4, Chapter 279, O.S.L. 1992, as last amended by Section 8, Chapter 384, O.S.L. 2000 (43 O.S. Supp. 2000, Section 413), is amended to read as follows:

Section 413. A. ~~After implementation of the Centralized Support Registry, all~~ The Department of Human Services shall maintain a Centralized Support Registry to receive, allocate and distribute support payments. All child support, spousal support, and related support payments shall be paid through the Registry as follows:

1. In all 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 payments shall be paid through the Registry~~; and

2. In all other cases in which support is being paid by income withholding~~, 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 to be paid through the Registry may request the court to order the payments to be made through the Registry. Upon such request the court shall order payments to be made through the Registry.

D. ~~All parties to a judgment, decree, or order in which 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 his or her address of record and shall provide in writing any changes in the address of record within~~

~~thirty (30) days of 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 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; 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~~ The Registry shall maintain the following information on all cases in which support is paid through the Registry. This information shall include, but not be limited to:

1. Names, social security numbers and dates of birth for both parents and the children for whom support is ordered;

2. The amount of periodic support owed under the order;

3. Case identification numbers; and

4. Payment address.

E. ~~Parties who 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~~ In all cases, except those being enforced under the state child support plan as provided under Section 237 of Title 56 of the Oklahoma Statutes, employers shall provide the Registry with a copy of the notice of income assignment specified in Section 1171.3 of Title 12 and Section 240.2 of Title 56 of the Oklahoma Statutes. Employers, parties, and obligees to an order, upon request, shall provide

additional information necessary for the Registry to identify and properly allocate and distribute payments.

F. An obligee, pursuant to a judgment, decree, or order in which 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 an address for receipt of payments and shall provide in writing any changes in the payment address within ten (10) days of the change. The Department of Human Services may refuse to disclose payment addresses if the Department has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to a party, custodian or child. Orders issued by the district or administrative court shall direct the parties to provide a payment address to the Registry.

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

H. The Department of Human Services shall adopt rules as necessary to implement the provisions of this section.

SECTION 7. AMENDATORY 56 O.S. 1991, Section 240.1, as last amended by Section 14, Chapter 384, O.S.L. 2000 (56 O.S. Supp. 2000, 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. 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. 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.

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 denial, revocation, restriction, or limitation pursuant to federal law or regulation.

SECTION 8. AMENDATORY Section 16, Chapter 323, O.S.L. 1998, as amended by Section 10, Chapter 384, O.S.L. 2000 (56 O.S. Supp. 2000, Section 237A), is amended to read as follows:

Section 237A. A. 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. That all payments for current support and payments for past due support owed to the Department or to the obligee shall be paid to the Centralized Support Registry at the address specified in the notice, and thereafter, any payments made other than to the Support 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 for service of process on file in the ~~Registry~~ central case registry provided for in Section 112A of Title 43 of the Oklahoma Statutes; and thereafter, the obligor must inform the ~~Registry~~ central case registry at the address specified in the notice in writing within thirty (30) days of any change;

5. 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 is required to inform the ~~Registry~~ central case 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~~ central case 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. 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 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. 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. 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 C of this section, subsequent notices will be mailed by regular mail to the last address for the obligor on file in the ~~Registry~~ central case registry;

13. 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;

14. 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; and

15. 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 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. Subsequent notices shall be mailed to the last address of record for service of process for the obligor and the custodian on file with the ~~Registry~~ central case 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 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 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 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 this title.

SECTION 9. AMENDATORY Section 4, Chapter 354, O.S.L. 1995, as amended by Section 16, Chapter 384, O.S.L. 2000 (56 O.S. Supp. 2000, 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, suspension, nonissuance, or nonrenewal of a license and

driving privileges or placement of an obligor on probation who is not in 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 6-201.1 of Title 47 of the Oklahoma Statutes, the Department of Human Services is hereby authorized to order the revocation, 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, 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 with revocation, suspension, nonissuance, or nonrenewal of a license and driving privileges of an obligor or placing the obligor on probation, the Department of Human Services shall issue a notice of intent of revocation, suspension, nonissuance, or nonrenewal of the license and driving privileges of the obligor or 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~~ central case registry provided for in Section 112A of Title 43 of the Oklahoma Statutes.

3. The notice shall state that the obligor's license will be suspended or revoked or the obligor placed on probation 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 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 title.

F. If an obligor fails to respond to a notice of intent to order the suspension, 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 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 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 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 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, 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 240.16 through 240.21 of this 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 10. AMENDATORY Section 26, Chapter 402, O.S.L. 1997 (56 O.S. Supp. 2000, Section 240.22A), is amended to read as follows:

Section 240.22A As used in ~~Sections 25 through 31 of this act~~ Section 240.22 et seq. of this title:

1. "Account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, money-market mutual fund account or brokerage account;

2. "Financial institution" means any federal or state bank or savings association, federal or state credit union, benefit association, insurance company, safe deposit company, money-market mutual fund or similar entity authorized to do business by the State of Oklahoma; and

3. "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 ~~or that the obligor has failed to make the full payments pursuant to a court-ordered payment plan for at least ninety (90) days~~.

SECTION 11. AMENDATORY Section 32, Chapter 402, O.S.L. 1997, as amended by Section 20, Chapter 384, O.S.L. 2000 (56 O.S. Supp. 2000, 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 unless after reviewing each data match, the obligor is found to be in full and timely compliance pursuant to a good faith, court-ordered payment plan.

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. Except as provided in Section 240.22E of this title, the financial institution shall not disclose information to the depositor or account holder. 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 12. REPEALER Section 10, Chapter 365, O.S.L. 1994 (56 O.S. Supp. 2000, Section 240.14), is hereby repealed.

SECTION 13. REPEALER Section 22, Chapter 414, O.S.L. 1997 (56 O.S. Supp. 2000, Section 241.2), is hereby repealed.

SECTION 14. This act shall become effective July 1, 2001.

SECTION 15. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

48-1-1157 BB 6/12/2015 3:18:54 AM