

ENROLLED HOUSE
BILL NO. 2527

By: Vaughn of the House

and

Cain of the Senate

An Act relating to child support; amending 12 O.S. 2001, Section 1171.3, which relates to procedures for payment of child support; clarifying procedures for payment; updating language; deleting outdated language; removing priority and equal treatment for certain actions; authorizing certain exceptions for not requiring immediate income assignments; providing certain findings; providing restrictions; defining term; amending 36 O.S. 2001, Section 6058A, as last amended by Section 1, Chapter 19, O.S.L. 2003 (36 O.S. Supp. 2003, Section 6058A), which relates to enrollment of children under the health plan of a parent; modifying requirement of insurers regarding enrollment of child under the health care plan of noncustodial parent; amending 43 O.S. 2001, Sections 118, as amended by Section 3, Chapter 314, O.S.L. 2002 and 118.2, as amended by Section 2, Chapter 19, O.S.L. 2003 (43 O.S. Supp. 2003, Sections 118 and 118.2), which relate to child support guidelines and requirements; modifying guidelines relating to child care costs; modifying requirements for health coverage; updating language; modifying requirements relating thereto; repealing 12 O.S. 2001, Section 1173.1, which relates to garnishment for collection of child support; and declaring an emergency.

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

SECTION 1. AMENDATORY 12 O.S. 2001, 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. In all child support cases arising out of an action for divorce, paternity or other proceedings, the court shall order the payment of child support as provided under Section 115 of Title 43 of the Oklahoma Statutes.~~

~~B. 1. The A 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 and available through the Administrative Office of the~~

Courts. 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 and the provisions stated in the notice.

2. The income assignment shall take effect on the next payment of earnings to the obligor after the payor receives notice ~~thereof and the~~. The amount withheld shall be sent to the ~~person entitled to the support~~ Centralized Support Registry as provided for in Section 413 of Title 43 of the Oklahoma Statutes 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.

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.

4. The income assignment is binding upon the payor until released or until further order of the court.

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

6. If the amount of support due under 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 person or agency designated to receive payments that the amount due exceeds the amount subject to withholding. If the payor wrongfully fails to pay or notify as required ~~herein~~ in this subsection, the payor may be liable for an amount up to the accumulated amount ~~that is due and owing~~ upon receipt of the notice.

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

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 of income assignment required pursuant to this subsection ~~of this section~~, the payor shall send written notice to the person 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 of income assignment.

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:

- a. fails to withhold or pay the support in accordance with the provisions of the income assignment notice, or
- b. fails to notify the person or agency designated to receive payments as required.

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.

11. An income assignment ~~issued pursuant to the provisions of this section~~ for child support 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.~~

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.

13. The income assignment shall remain ~~effective~~ in effect regardless of a change of payor.

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.

15. 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 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~~ until the time of 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 agency designated to receive payments, the applicant shall send a new notice of income assignment pursuant to subsection E of this section.~~

C. Income assignment ~~proceedings~~ shall be available to collect ~~day care and health expense arrearages~~ any amounts due for child support, child care and medical expenses, as well as current support alimony payments; provided, child support shall be paid prior to any alimony payments.

~~G.~~ D. 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.~~ E. 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.

~~F.~~ F. 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.

~~G.~~ G. 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 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)~~:

a. one of the parties demonstrates and the court finds that there is good cause not to require immediate income withholding. Any finding that there is good cause not to require immediate income assignment must be based upon at least:

(1) a written determination and explanation by the court or administrative authority of why implementing immediate income assignment would not be in the best interests of the child, and

(2) proof of timely payment of previously ordered support in cases involving modification of support orders, or ~~(2)~~

b. a written agreement is reached between the parties which provides for an alternative arrangement. For purposes of this subparagraph, "written agreement" means a written alternative arrangement signed by both the custodial and noncustodial parents which has been reviewed by the court and entered into the record by the court or administrative authority.

SECTION 2. AMENDATORY 36 O.S. 2001, Section 6058A, as last amended by Section 1, Chapter 19, O.S.L. 2003 (36 O.S. Supp. 2003, 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~~ If 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 Division of the Department of Human Services, 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~~ When 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~~ To enroll the child under family coverage and deduct the employee's cost of the coverage from the employee's wages~~7~~. The enrollment shall be made upon application of to the employer by 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 Division; 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;

provided, however, the provisions of this subsection shall not apply where the coverage is through a group plan and the group's coverage through the insurer is discontinued or the noncustodial parent ceases to be eligible for participation in the group plan.

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 comply with Part B of the National Medical Support Notice. The insurer may be fined up to Two Hundred Dollars (\$200.00) per month per child for each failure to comply with the requirements of the National Medical Support Notice. Fines collected shall be remitted to the Child Support Revenue Enhancement Fund created pursuant to Section 225 of Title 56 of the Oklahoma Statutes.

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

SECTION 3. AMENDATORY 43 O.S. 2001, Section 118, as amended by Section 3, Chapter 314, O.S.L. 2002 (43 O.S. Supp. 2003, Section 118), is amended to read as follows:

Section 118. A. Except in those cases where parties represented by counsel have agreed to a different disposition, there shall be a rebuttable presumption in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the following guidelines is the correct amount of child support to be awarded.

B. The district or administrative court may deviate from the amount of child support indicated by the child support guidelines if the amount of support so indicated is unjust, inequitable, unreasonable, or inappropriate under the circumstances, or not in

the best interests of the child. If the district or administrative court deviates from the amount of child support indicated by the child support guidelines, the court shall make specific findings of fact supporting such action.

C. The court shall not take into account any stepchildren of such parent in making the determination, but in making such determination, the court may take into account the reasonable support obligations of either parent as to only natural, legal, or legally adopted minor children in the custody of the parent.

D. For purposes of this section and in determining child support, the noncustodial parent shall be designated the obligor and the custodial parent shall be designated the obligee.

E. The child support guidelines are as follows:

1. All child support shall be computed as a percentage of the combined gross income of both parents. The Child Support Guideline Schedule as provided in Section 119 of this title shall be used for such computation. The child support obligations of each parent shall be computed. The obligor's share shall be paid monthly to the obligee and shall be due on a specific date;

2. a. (1) "Gross income", subject to paragraph 3 of this subsection, includes earned and passive income from any source, except as excluded in this section.
- (2) "Earned income" is defined as income received from labor, or the sale of goods or services and includes, but is not limited to, income from:
 - (a) salaries,
 - (b) wages,
 - (c) commissions,
 - (d) bonuses, and
 - (e) severance pay.
- (3) "Passive income" is defined as all other income and includes, but is not limited to, income from:
 - (a) dividends,
 - (b) pensions,
 - (c) rent,
 - (d) interest income,
 - (e) trust income,
 - (f) annuities,
 - (g) social security benefits,

- (h) workers' compensation benefits,
 - (i) unemployment insurance benefits,
 - (j) disability insurance benefits,
 - (k) gifts,
 - (l) prizes, and
 - (m) royalties.
- b. Specifically excluded from gross income are:
- (1) actual child support received for children not before the court, and
 - (2) benefits received from means-tested public assistance programs including, but not limited to:
 - (a) Temporary Assistance for Needy Families (TANF),
 - (b) Supplemental Security Income (SSI),
 - (c) Food Stamps, and
 - (d) General Assistance and State Supplemental Payments for Aged, Blind and the Disabled;
3. a. For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross income" is defined as gross receipts minus ordinary and necessary expenses required for self-employment or business operations.
- b. Specifically excluded from ordinary and necessary expenses for purposes of this paragraph are amounts determined by the district or administrative court to be inappropriate for determining gross income for purposes of calculating child support.
- c. The district or administrative court shall carefully review income and expenses from self-employment or operation of a business to determine an appropriate level of gross income available to the parent to satisfy a child support obligation.
- d. The district or administrative court shall deduct from self-employment gross income an amount equal to the employer contribution for F.I.C.A. tax which an employer would withhold from an employee's earnings on an equivalent gross income amount. A determination of business income for tax purposes shall not control for purposes of determining a child support obligation.
- e. Expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment,

or operation of a business shall be counted as income if they are significant and reduce personal living expenses. Such payments may include but are not limited to a company car, free housing, or reimbursed meals;

4. a. For purposes of computing gross income of the parents, the district or administrative court shall include for each parent, whichever is most equitable, either:
 - (1) all earned and passive monthly income,
 - (2) all passive income, and earned income equivalent to a forty-hour work week plus such overtime and supplemental income as the court deems equitable,
 - (3) the average of the gross monthly income for the time actually employed during the previous three (3) years, or
 - (4) the minimum wage paid for a forty-hour work week.
- b. If equitable, the district or administrative court may instead impute as gross monthly income for either parent the amount a person with comparable education, training and experience could reasonably expect to earn.
- c. If a parent is permanently physically or mentally incapacitated, the child support obligation shall be computed on the basis of actual monthly gross income;

5. The amount of any preexisting district or administrative court order for current child support for children not before the court or for support alimony arising in a prior case shall be deducted from gross income to the extent payment is actually made under the order;

6. The amount of reasonable expenses of the parties attributable to debt service for preexisting, jointly acquired debt of the parents may be deducted from gross income to the extent payment of the debt is actually made. In any case where deduction for debt service is made, the district or administrative court may provide for prospective upward adjustments of support made possible by the reasonably anticipated reduction or elimination of any debt service;

7. The results of paragraphs 2, 3, 4, 5, and 6 of this subsection shall be denominated "adjusted gross income";

8. In cases in which one parent has sole custody, the adjusted monthly gross income of both parents shall be added together and the Child Support Guideline Schedule consulted for the total combined base monthly obligation for child support;

9. After the total combined child support is determined, the percentage share of each parent shall be allocated by computing the percentage contribution of each parent to the combined adjusted gross income and allocating that same percentage to the child

support obligation to determine the base child support obligation of each parent;

10. a. In cases where shared parenting time has been ordered by a district court or agreed to by the parents, the base monthly obligation shall be adjusted. "Shared parenting time" means that each parent has physical custody of the child or children overnight for more than one hundred twenty (120) nights each year.
 - b. An adjustment for shared parenting time shall be made to the base monthly child support obligation by the following formula: The total combined base monthly child support obligation shall be multiplied by one and one-half (1 1/2). The result shall be designated the adjusted combined child support obligation.
 - c. To determine each parent's adjusted child support obligation, the adjusted combined child support obligation shall be divided between the parents in proportion to their respective adjusted gross incomes.
 - d.
 - (1) The percentage of time a child spends with each parent shall be calculated by determining the number of nights the child is in the physical custody of each parent and dividing that number by three hundred sixty-five (365).
 - (2) Each parent's share of the adjusted combined child support obligation shall then be multiplied by the percentage of time the child spends with the other parent to determine the base child support obligation owed to the other parent.
 - (3) The respective adjusted base child support obligations for each parent are then offset, with the parent owing more base child support paying the difference between the two amounts to the other parent. The base child support obligation of the parent owing the lesser amount is then set at zero dollars.
 - e. The parent owing the greater amount of base child support shall pay the difference between the two amounts as a child support order. In no case shall the amount of child support ordered to be paid exceed the amount of child support which would otherwise be ordered to be paid if the parents did not participate in shared parenting time.
 - f. In no event shall the provisions of this paragraph be construed to authorize or allow the payment of child support by the custodial parent to the noncustodial parent;
11. a. The actual medical and dental insurance premium for the child shall be allocated between the parents in the same proportion as their adjusted gross income and shall be added to the base child support obligation. If the insurance policy covers a person other than the

child before the court, only that portion of the premium attributed to the child before the court shall be allocated and added to the base child support obligation.

- b. If the obligor pays the medical insurance premium, the obligor shall receive credit against the base child support obligation for the obligee's allocated share of the medical insurance premium.
- c. If the obligee pays the medical insurance premium, the obligor shall pay the obligor's allocated share of the medical insurance premium to the obligee as part of the base child support obligation;

12. In cases of split custody, where each parent is awarded custody of at least one of their natural or legally adopted children, the child support obligation for each parent shall be calculated by application of the child support guidelines for each custodial arrangement. The parent with the larger child support obligation shall pay the difference between the two amounts to the parent with the smaller child support obligation;

- 13. a. The district or administrative court shall determine the "actual" child care expenses reasonably necessary to enable either or both parents to:

- (1) be employed,
- (2) seek employment, or
- (3) attend school or training to enhance employment income.

- b. When the obligee is participating in the Department of Human Services child care subsidy program as provided under Section 230.50 of Title 56 of the Oklahoma Statutes, the Child Care Eligibility/Rates Schedule established by the Department shall be used to determine the amount to be treated as actual child care costs incurred. When applying the schedule to determine the family share copayment amount, the obligor's share of the base monthly obligation for child support and the obligee's gross income shall be considered as the obligee's monthly income. The actual child care costs incurred shall be the family share copayment amount indicated on the schedule which shall be allocated and paid monthly in the same proportion as base child support. The Department of Human Services shall promulgate rules, as necessary, to implement the provisions of this subparagraph.

- c. The actual child care costs incurred for the purposes authorized by this paragraph shall be allocated and paid monthly in the same proportion as base child support.

- ~~e.~~ d. The district or administrative court shall require the obligee to provide the obligor with timely documentation of any change in the amount of the child

care costs. Upon request by the obligor, whose requests shall not exceed one each month, or upon order of the court, the obligee shall provide the documentation of the amount of incurred child care costs which are related to employment, employment search or education or training as authorized by this paragraph.

- ~~d.~~ e. If the court determines that it will not cause detriment to the child or will not cause undue hardship to either parent, in lieu of payment of child care expenses incurred during employment, employment search, or while the obligee is attending school or training, the obligor may provide care for the child during that time;

14. Reasonable and necessary medical, dental, orthodontic, optometric, psychological, or any other physical or mental health expenses of the child incurred by either parent and not reimbursed by insurance may be allocated in the same proportion as the parents' adjusted gross income as separate items that are not added to the base child support obligation. If reimbursement is required, the parent who incurs the expense shall be reimbursed by the other parent within thirty (30) days of receipt of documentation of the expense;

15. Transportation expenses of a child between the homes of the parents may be divided between the parents in proportion to their adjusted gross income;

16. a. (1) Child support orders may be modified upon a material change in circumstances.
- (2) Modification of the Child Support Guideline Schedule shall not alone be a material change in circumstances for child support orders in existence on November 1, 1999.
- (3) Providing support for children born to or adopted by either parent after the entry of a child support order shall not alone be considered a material change in circumstances.
- (4) An order of modification shall be effective upon the date the motion to modify was filed, unless the parties agree to the contrary or the court makes a specific finding of fact that the material change of circumstance did not occur until a later date.
- b. (1) A child support order shall not be modified retroactively regardless of whether support was ordered in a temporary order, a decree of divorce, an order establishing paternity, modification of an order of support, or other action to establish or to enforce support.
- (2) All final orders shall state whether past due support and interest has accrued pursuant to any temporary order and the amount due, if any;

however, failure to state a past due amount shall not bar collection of that amount after entry of the final support order.

- c. The amount of a child support order shall not be construed to be an amount per child unless specified by the district or administrative court in the order. A child reaching the age of majority or otherwise ceasing to be entitled to support pursuant to the support order shall constitute a material change in circumstances, but shall not automatically serve to modify the order;
- 17.
- a. When a child support order is entered or modified, the parents may agree or the district or administrative court may require a periodic exchange of information for an informal review and adjustment process.
 - b. When an existing child support order does not contain a provision which requires an informal review and adjustment process, either parent may request the other parent to provide the information necessary for the informal review and adjustment process. Information shall be provided to the requesting parent within forty-five (45) days of the request.
 - c. Requested information may include verification of income, proof and cost of children's medical insurance, and current and projected child care costs. If shared parenting time has been awarded by the court, documentation of past and prospective overnight visits shall be exchanged.
 - d. Exchange of requested information may occur once a year or less often, by regular mail.
 - e.
 - (1) If the parents agree to a modification of a child support order, their agreement shall be in writing on a standard agreed order form provided for in Section 120 of this title and shall comply with the child support guidelines.
 - (2) The standard agreed order form, the standard child support guideline calculation form, and the standard financial affidavit form shall be submitted to the district or administrative court.
 - (3) The standard agreed order form and supporting documents submitted shall be reviewed by the district or administrative court for approval to confirm that the standard agreed order form and documents comply with the child support guidelines and that all necessary parties have been notified. The approved standard agreed order form shall be filed with the court.
 - (4) If the standard agreed order form does not comply with the child support guidelines, or all

necessary parties have not been notified, the matter shall be set for hearing.

- f. (1) If the parents fail to cooperate in the exchange of information, either parent may move for a modification hearing or for mediation. The district or administrative court on its own motion may refer the parents to a mediator.
- (2) If referred to mediation, and modification is subsequently found to be appropriate, the modification shall be effective on the date the motion was filed.
- (3) Costs for mediation, if any, shall be paid by the parent who failed to cooperate in the exchange of information. Otherwise, the court may assess costs equally between the parents, or as determined by the court;

18. Child support orders may include such provisions as the district or administrative court deems appropriate to assure that the child support payments to the custodial parent are used for the support of the child;

19. The district or administrative court shall require and enforce a complete disclosure of assets by both parents on a financial affidavit form prescribed by the Administrative Office of the Courts;

20. Child support orders issued for prior-born children of the payor may not be modified for the purpose of providing support for later-born children;

21. The court, to the extent reasonably possible, shall make provision in an order for prospective adjustment of support to address any foreseen changes including, but not limited to, changes in medical insurance, child care expenses, medical expenses, and extraordinary costs;

22. The social security numbers of both parents and the children who are the subject of a paternity or child support order shall be included in the support order summary form provided for in Section 120 of this title; and

23. A completed support order summary form shall be presented to the judge with all paternity and child support orders, and no such order shall be signed by the judge without presentation of the form.

SECTION 4. AMENDATORY 43 O.S. 2001, Section 118.2, as amended by Section 2, Chapter 19, O.S.L. 2003 (43 O.S. Supp. 2003, Section 118.2), is amended to read as follows:

Section 118.2 A. ~~Where~~ When 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~~ To enroll the child under family coverage and to deduct the employee's cost of the coverage from the employee's wages, ~~unless the employer currently pays for the cost or portion of dependent coverage,~~. The enrollment shall be made upon application to the employer 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 comply with the National Medical Support Notice. The employer may be fined up to Two Hundred Dollars (\$200.00) per month per child for each failure to comply with the requirements of the National Medical Support Notice. Fines collected shall be remitted to the Child Support Revenue Enhancement Fund created pursuant to Section 225 of Title 56 of the Oklahoma Statutes.

C. An employer may not be fined under this section where an employee fails to contribute his or her portion of a health insurance premium.

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

SECTION 5. REPEALER 12 O.S. 2001, Section 1173.1, is hereby repealed.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 20th day of May, 2004.

Presiding Officer of the House of
Representatives

Passed the Senate the 24th day of May, 2004.

Presiding Officer of the Senate