

ENROLLED SENATE  
BILL NO. 1435

By: Laster of the Senate

and

Toure of the House

An Act relating to child support; amending 43 O.S. 2001, Section 139.1, which relates to revocation of licenses; modifying definitions; updating reference; allowing certain actions on specified licenses; allowing court to place obligor on probation under certain circumstances; establishing qualifications and procedures for reinstatement of certain licenses; requiring licensing board to take certain actions under specified order; extending provisions to certain persons; providing for appeal of certain order; amending 47 O.S. 2001, Section 6-201.1, as amended by Section 13, Chapter 392, O.S.L. 2003 (47 O.S. Supp. 2003, Section 6-201.1), which relates to revocation of driving privilege; requiring Department of Public Safety to prescribe certain form to be used for certain order; clarifying appeal of certain orders; conforming language; amending 56 O.S. 2001, Sections 237A, 240.15, 240.16, 240.17 and 240.19, which relate to notice to obligor, restriction of licenses; probation; termination of restriction, and implementation of orders; providing exception for certain notice; modifying procedures for certain notice; allowing district court to hear certain matters; authorizing Department of Human Services to initiate certain proceeding; authorizing certain entity to make certain orders related to licenses; authorizing Department to report noncompliance of support order to specified entity; requiring certain notice; establishing procedures for certain notice; specifying contents of certain notice; requiring certain entity to make specified determination in certain hearing; requiring certain orders upon specified determination; modifying definition; extending provisions to certain persons; allowing probation from license suspension under certain circumstances; establishing procedure for termination of certain license restriction; allowing reinstatement of license under certain circumstances; specifying procedure for reinstatement of certain license; specifying implementation of certain order; repealing 56 O.S. 2001, Section 240.18, which relates to lifting of suspension, revocation and probation; and providing an effective date.

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

SECTION 1. AMENDATORY 43 O.S. 2001, Section 139.1, is amended to read as follows:

Section 139.1 A. As used in this section, ~~Section 230.3 of Title 56 of the Oklahoma Statutes,~~ and Section 6-201.1 of Title 47 of the Oklahoma Statutes:

1. "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;

2. "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 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 as required by an order for support for at least ninety (90) days or has failed, after receiving appropriate notice to comply with subpoenas or ~~warrants~~ orders relating to paternity or child support proceedings or has failed to comply with an order to submit to genetic testing to determine paternity;

3. "Order for support" means any judgment or order for the support of dependent children or an order to submit to genetic testing to determine paternity issued by any court of this state or other state or any judgment or order issued in accordance with an administrative procedure established by state law that affords substantial due process and is subject to judicial review;

4. "Department" means the Department of Human Services;

5. "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 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, ~~Section 1-101 et seq. of Title 29 of the Oklahoma Statutes,~~ and certificates of title for vessels and motors and other licenses or registrations issued pursuant to the Oklahoma Vessel and Motor Registration Act, ~~Section 4001 et seq. of Title 63 of the Oklahoma Statutes,~~ or a driver license or other permit issued pursuant to Title 47 of the Oklahoma Statutes;

6. "Obligor" means the person who is required to make payments ~~pursuant to~~ or comply with other provisions of an order for support;

7. "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; and

8. "Payment plan" includes, but is not limited to, a plan approved by the court that provides sufficient security to ensure compliance with a support order and/or that incorporates voluntary or involuntary income assignment or a similar plan for periodic payment on an arrearage and, if applicable, current and future support.

B. 1. Except as otherwise provided by this subsection, the district courts of this state are hereby authorized to order the revocation, suspension, nonissuance or nonrenewal of a license or the placement of the obligor on probation who is in noncompliance with an order for support.

2. If the obligor is a licensed attorney, the court may report the matter to the Oklahoma State Bar Association for appropriate action to revoke or suspend the professional license of the obligor or other appropriate action in accordance with the rules of professional conduct and disciplinary proceedings.

3. Pursuant to Section 6-201.1 of Title 47 of the Oklahoma Statutes, the district or administrative courts of this state are hereby authorized to order the revocation or suspension of a driver license of an obligor who is in noncompliance with an order of support. ~~In addition, the court may, in case of extreme and unusual hardship, provide for a modification of the revocation, or suspension of the driver license 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 court.

C. 1. At any hearing involving the support of a child, if the district court finds evidence presented at the hearing that an obligor is in noncompliance with an order for support and the obligor is licensed by any licensing board, the court, in addition to any other enforcement action available, may ~~direct the licensing board to suspend or revoke the license of the obligor who is in noncompliance with the order of support until the obligor no longer is delinquent in the payments or has complied with the subpoena or warrant~~ or place the obligor on probation.

2. ~~Upon a showing that a suspension or revocation or continued suspension, revocation, nonissuance or nonrenewal of a license would create a significant hardship to the obligor, to the obligor's employees, to legal dependents residing in the obligor's household, or to persons, businesses, or other entities served by the obligor~~ If the obligor enters into a court-ordered payment plan to repay past due support and provides proof to the court that the obligor is complying with all other provisions of the order for support, the court may place the obligor on probation and allow the obligor to practice or continue to practice the obligor's profession,

occupation or business, or to operate a motor vehicle. Probation shall be conditioned upon full compliance with the order. If the court grants probation, the probationary period shall not exceed three (3) years, and the terms of probation shall provide for automatic suspension or revocation of the license if the obligor does not provide monthly proof to the court and to the person entitled to support of full compliance fully comply with the order. Proof of payment may be filed with the court clerk in the manner and form as required by the court If the court orders probation, the appropriate licensing board shall not be notified and no action is required of that board.

D. 1. ~~When the court determines that the support debt or support obligation is paid in full, or that the obligor has complied with the subpoena or warrant relating to paternity or child support, it shall direct the licensing board to terminate the order of suspension, revocation, nonissuance or nonrenewal of the license or probation of the obligor. The court shall send a copy of the order to the licensing board, the obligor and the person entitled to support~~ When all support due is paid in full and the obligor has complied with all other provisions of the order for support, the obligor may file a motion with the court for reinstatement of the obligor's licenses and the motion shall be set for hearing. If the court finds the obligor has paid all support due in full and has complied with all other provisions of the order for support, the court shall reinstate the obligor's licenses.

2. ~~Entry of this order does not limit the ability of the court to issue a new order requiring the licensing board to revoke, suspend, or not renew the license of the same obligor in the event of another delinquency or failure to comply.~~

E. 1. ~~The court shall not lift the suspension, revocation, nonissuance or nonrenewal of the license or terminate the probation of the obligor until the obligor files with the court proof showing that the obligor is current in the obligor's payments as required by the court or has complied with the subpoena or warrant relating to paternity or child support~~ An obligor may file a motion with the court for reinstatement of the obligor's licenses prior to payment in full of all support due and the motion shall be set for hearing.

2. ~~Before the court orders termination of probation or removal of a suspension, revocation, nonissuance or nonrenewal, the court shall provide written notice by certified mail, return receipt requested, to the person entitled to child support informing the person that the obligor has proven to the satisfaction of the court that the obligor is current in the payments or has complied with subpoena or warrant. Such notice shall also include an opportunity for the person entitled to child support to protest the termination, removal, issuance or renewal, upon a claim and proof that the obligor is not current in the obligor's payments or has not complied with subpoena or warrant. A protest must be commenced within thirty (30) days of receipt of the notice and, upon the filing of a protest, the matter shall be set for hearing. At the hearing, the obligor shall submit proof that the obligor is current in the payments as required by the court~~ The court may reinstate the obligor's licenses if the obligor has:

- a. paid the current child support and the monthly arrearage payments each month for the current month and two months immediately preceding, or paid an amount equivalent to three months of child support and arrearage payments which satisfies the current child support and monthly arrearage payments for the current month and two months immediately preceding,
- b. disclosed all information regarding health insurance availability and obtained and maintained health insurance coverage required by an order for support,
- c. complied with all subpoenas and orders relating to paternity or child support proceedings,
- d. complied with all orders to submit to genetic testing to determine paternity, and
- e. disclosed all employment and address information.

3. If the court terminates the order of suspension, revocation, nonissuance or nonrenewal, it shall place the obligor on probation, conditioned upon the obligor's complying with any payment plan and the provisions of the order for support.

4. If the obligor fails to comply with the terms of probation, the court may refuse to reinstate the obligor's licenses and driving privileges unless the obligor makes additional payments in an amount determined by the court to be sufficient to ensure future compliance, and the obligor complies with the other terms set by the court.

F. The obligor shall serve on the custodian or the state a copy of the motion for reinstatement of the obligor's licenses and notice of hearing pursuant to Section 2005 of Title 12 of the Oklahoma Statutes, or if there is an address of record, by regular mail to the address of record on file with the central case registry pursuant to Section 112A of this title. When child support services are being provided pursuant to Section 237 of Title 56 of the Oklahoma Statutes, the obligor shall serve a copy of the motion for reinstatement of the obligor's licenses on the Department of Human Services.

G. If the court orders termination of the order of suspension or revocation, the obligor shall send a copy of the order reinstating the obligor's licenses to the licensing board and the custodian and to the Department of Human Services when child support services are being provided pursuant to Section 237 of Title 56 of the Oklahoma Statutes.

H. Entry of this order does not limit the ability of the court to issue a new order requiring the licensing board to revoke or suspend the license of the same obligor in the event of another delinquency or failure to comply.

~~F.~~ I. Upon receipt of a court order to suspend or revoke the license of an obligor ~~or end probation~~, the licensing board shall ~~implement the suspension or revocation of the license or placement of the obligor on probation~~ comply with the order by:

1. Determining if the licensing board has issued a license to the individual whose name appears on the order for support;

2. Notifying the obligor of the suspension, or revocation ~~or probation~~;

3. Demanding surrender of the license, if required;

4. Entering the suspension or revocation of the license ~~or probation~~ on the appropriate records; and

5. Reporting the suspension or revocation of the license ~~or the probation~~ as appropriate.

~~G.~~ J. Upon receipt of a court order to not issue or not renew the license of an obligor, the licensing board shall implement by:

1. Determining if the licensing board has received an application for issuance or renewal of a license from the individual whose name appears on the order of support ~~and an application has been submitted for issuance or renewal of such license~~;

2. Notifying the obligor of the nonissuance or nonrenewal; and

3. Entering the nonissuance or nonrenewal of the license as appropriate.

~~H.~~ K. An order, issued by the court, directing the licensing board to suspend, revoke, not issue or not renew the license of the obligor ~~or place the obligor on probation~~ shall be processed and implemented by the licensing board without any additional review or hearing. ~~An order, issued by the court, directing the licensing board to suspend or revoke the license of the obligor or place the obligor on probation shall be implemented by the licensing board and shall continue until the court, judicial or appellate court of review, or Court of Civil Appeals advises the licensing board by order that the suspension, revocation, probation, nonissuance or nonrenewal is terminated.~~

~~I.~~ L. The licensing board has no jurisdiction to modify, remand, reverse, vacate, or stay the order of the court for the suspension, revocation, nonissuance or nonrenewal of a license ~~or placement of the obligor on probation~~.

~~J.~~ M. In the event of suspension, revocation, nonissuance or nonrenewal of a license, ~~or a probation of the obligor~~, any funds paid by the obligor to the licensing board for costs related to issuance, renewal, or maintenance of a license shall not be refunded to the obligor.

~~K.~~ N. A licensing board may charge the obligor a fee to cover the administrative costs incurred by the licensing board to

administer the provisions of this section. Fees collected pursuant to this section by a licensing board which has an agency revolving fund shall be deposited in the agency revolving fund for the use by the licensing board to pay the costs of administering this section. Otherwise, the administrative costs shall be deposited in the General Revenue Fund of the state.

~~H.~~ O. Each licensing board shall promulgate rules necessary for the implementation and administration of this section.

~~M.~~ P. The licensing board is exempt from liability to the obligor for activities conducted in compliance with ~~this act~~ Section 139 et seq. of this title.

Q. The provisions of this section may be used to revoke or suspend the licenses and driving privileges of the custodian of a child who fails to comply with an order to submit to genetic testing to determine paternity.

R. A final order entered pursuant to this section may be appealed to the Supreme Court of Oklahoma pursuant to Section 990A of Title 12 of the Oklahoma Statutes.

SECTION 2. AMENDATORY 47 O.S. 2001, Section 6-201.1, as amended by Section 13, Chapter 392, O.S.L. 2003 (47 O.S. Supp. 2003, Section 6-201.1), is amended to read as follows:

Section 6-201.1 A. In addition to other qualifications and conditions established by law, the driving privilege of an individual is subject to the requirements of this section.

B. Upon receipt of an order from a court or from the Department of Human Services, Office of Administrative Hearings: ~~Child Support of the Department of Human Services~~, hereinafter referred to as "OAH", that a person obligated to pay child support who owns or operates a motor vehicle is not in compliance with an order for support, the Commissioner of Public Safety shall revoke the person's driving privilege.

C. 1. Whenever a court or the OAH finds that a person is not in compliance with an order of child support, the court or the OAH, as applicable, shall require the person to surrender to it the driver license held by the person and shall forward to the Department of Public Safety an order to revoke the driving privilege of the person, together with any driver license surrendered to the court or OAH. ~~An order of the court or the OAH, as applicable, to revoke a person's driving privilege for noncompliance with an order of support shall be upon a Notification of Revocation form prescribed by the Department of Public Safety.~~ The Department of Public Safety shall prescribe, prepare and distribute the a Notification of Revocation form to be used by the courts and the OAH when an order has been entered revoking a person's driving privileges for noncompliance with an order for support.

2. In addition to the Department of Public Safety, the court or the OAH, as applicable, shall send a copy of the Notification of

Revocation to the person obligated to pay child support by first class, postage prepaid mail. The Notification shall:

- a. include the name, address, date of birth, physical description and, if known, the driver license number of the person,
- b. require the Department to revoke the driving privilege of the person required to pay child support,
- c. require the Department to not reinstate the person's driving privilege until:
  - (1) the court or the OAH issues a release that states such person is in compliance with the order of support or until a court or the OAH otherwise authorizes reinstatement of the person's driving privilege, and
  - (2) the person has paid to the Department the fees required by Section 6-212 of this title and has met all other statutory requirements for reinstatement of the person's driving privilege;
- d. specify the reason and statutory ground for the revocation and the effective date of the revocation;
- e. inform the person that in order to apply for reinstatement of the person's driving privilege, the person must obtain a release from the OAH or the court, as applicable; and
- f. inform the person that ~~the person may file a petition for judicial review of the Notification of Revocation in district court within thirty (30) days after receipt of the Notification~~ final orders of the OAH may be appealed to the district court pursuant to Section 240.3 of Title 56 of the Oklahoma Statutes and final orders of the district court may be appealed to the Supreme Court of Oklahoma pursuant to Section 990A of Title 12 of the Oklahoma Statutes.

D. Upon receipt of the Notification of Revocation from a court or the OAH, as applicable, that a person obligated to pay child support is not in compliance with an order of support, the Department shall, in addition to any other authority to withdraw driving privileges, revoke the driving privilege of the person named in the Notification without hearing.

E. 1. The court or the OAH shall furnish a release to the Department whenever a person, whose driving privilege has been revoked pursuant to this section, has established and is complying with a payment ~~schedule~~ plan, as determined by the court or the OAH. Upon receipt of such release, the Department shall reinstate the driving privileges of the person, if the person is otherwise eligible, pursuant to Section 6-212 of this title;

2. Should the person default on the payment ~~schedule plan~~, the court or OAH may resubmit the notice of noncompliance as provided for in this section. The court or the OAH shall furnish a release to the Department whenever the person is once again complying with the payment ~~schedule plan~~, as determined by the court or the OAH. Upon receipt of such release, the Department shall reinstate the driving privileges of the person, if the person is otherwise eligible, pursuant to Section 6-212 of this title; and

3. A person whose driving privilege has been revoked for noncompliance due to defaulting on a payment ~~schedule plan~~, pursuant to paragraph 2 of this subsection, shall be required to meet all statutory requirements for reinstatement of driving privileges, including, but not limited to, the payment of processing and reinstatement fees, as provided for in Section 6-212 of this title.

F. If the court or the OAH, as applicable, is unable to secure the surrender to it of the driver license held by the person found to be in noncompliance with an order of support, the Department, upon revoking the driving privilege of the person, shall require that the driver license held by the person be surrendered to the Department. Upon reinstatement of the person's driving privileges, as provided for by law, the person's valid and lawful driver license shall be returned to the person by the Department if the person is otherwise eligible.

SECTION 3. AMENDATORY 56 O.S. 2001, 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, unless the amount of past due support has been determined in a court proceeding within the past twelve (12) months, 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 central case registry provided for in Section 112A of Title 43 of the Oklahoma Statutes; and thereafter, the obligor must inform the 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 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 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 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 provided for in this section shall be served by the Department upon the obligor as provided in Section 2004 2005 of Title 12 of the Oklahoma Statutes and on the custodian by regular mail, or if there is an address of record on file with the central case registry pursuant to Section 112A of Title 43 of the Oklahoma Statutes, the notice may be served by regular mail at the address of record. Thereafter, the~~ 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 central case registry. The Department shall send the initial and subsequent notice to the custodian of the child by regular mail with a certificate of mailing.

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 a~~ 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 district or administrative court shall hear the matter and shall enter an order determining the contested issues and affirming the other provisions of the notice. ~~The~~ An 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 a~~ 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 district or 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 4. AMENDATORY 56 O.S. 2001, 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, the "Department", is authorized to ~~order~~ initiate proceedings for the revocation, suspension, ~~nonissuance,~~ or ~~nonrenewal~~ revocation of a license and driving privileges or placement of an obligor on probation who is not in compliance with an order for support.

2. The Department of Human Services, Office of Administrative Hearings: Child Support, the "OAH", is authorized to order the suspension or revocation of a license, or placement of the obligor who is in noncompliance with an order for support on probation. Additionally, the OAH is authorized pursuant to Section 6-201.1 of Title 47 of the Oklahoma Statutes to order the suspension or revocation of a driver license or driving privileges of an obligor who is in noncompliance with an order for support.

3. If the obligor is a licensed attorney, the Department may report the matter to the ~~Oklahoma~~ State Bar Association ~~for~~ to

suspend or revoke the professional license of the obligor or other appropriate action in accordance with the rules of professional conduct and disciplinary proceedings.

~~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, revocation, 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, revocation, 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~~ pursuant to Section 2004 2005 of Title 12 of the Oklahoma Statutes; or, if notice has been issued pursuant to Section 237A of this title there is an address of record, 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 central case registry as 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, or enters into a payment plan approved by the Department,
- b. ~~enters into a payment plan approved by the Department,~~ or obtains and maintains health insurance coverage as required by an order of support,
- c. ~~appears and shows cause in a hearing before the Department that suspension or revocation of a license or probation is not appropriate~~ complies with all subpoenas and orders relating to paternity or child support proceedings, and
- d. complies with all orders to submit to genetic testing to determine paternity.

~~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 A written request for a hearing shall may be made in writing within twenty (20) days of after 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~~ At a hearing under this section, the OAH shall determine whether the obligor is in noncompliance with an order for support and whether suspension or revocation of a license, or probation, is appropriate.

1. If the obligor enters into a payment plan for the past due support and is complying with the order for support, the OAH may order probation pursuant to Section 240.16 of this title.

2. If the OAH determines the obligor is in noncompliance with an order for support and has not entered into a payment plan for past due support, the OAH shall issue an order for suspension or revocation of the obligor's licenses and driving privileges.

~~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~~ If an obligor fails to respond to a notice issued under this section, fails to request a timely hearing, or fails to appear at a scheduled hearing, the obligor's defenses, objections or request for a payment plan shall be considered without merit and the OAH shall enter an order of suspension, revocation, nonissuance or nonrenewal of a license to the licensing board and to the obligor. If the OAH orders probation, the appropriate licensing board shall not be notified and no action is required of that board.

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

~~J.~~ I. The ~~Department~~ OAH has the authority to order the ~~revocation, suspension, nonissuance, or nonrenewal~~ revocation 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~~ OAH, revoke, suspend, or refuse to renew or reissue the license and driving privileges of the named individual ~~or place the obligor on probation.~~

~~K.~~ J. 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, has failed to comply with subpoenas or orders relating to paternity or child support proceedings, or has failed to comply with an order to submit to genetic testing to determine paternity.

K. The provisions of this section may be used to suspend, revoke, not issue or not renew the licenses of the custodian of a child who fails to comply with an order to submit to genetic testing to determine paternity.

SECTION 5. AMENDATORY 56 O.S. 2001, Section 240.16, is amended to read as follows:

Section 240.16 ~~If at a hearing requested by the obligor pursuant to Section 4 of this act, When the obligor shows that suspension, revocation or continued suspension or revocation of a license would create a significant hardship to the obligor, to the obligor's employees, to legal dependents residing in the obligor's household, or to persons, businesses, or other entities served by the obligor, the Department enters into a court-ordered payment plan to repay any past due support pursuant to Section 240.15 of this title and provides proof to the court that the obligor is complying with all other provisions of the order for support, the OAH may place the obligor on probation and. Probation will allow the obligor to practice or continue to practice his or her profession, occupation or business on probation or to operate a motor vehicle.~~ Probation shall be conditioned upon full compliance with the order. If the ~~Department~~ OAH grants probation, the period shall not exceed three (3) years, and the terms of probation shall provide for

automatic suspension of the license if the obligor does not provide monthly proof to the Department, as required by the Department, of full compliance fully comply with the order.

SECTION 6. AMENDATORY 56 O.S. 2001, 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~~ all support due is paid in full and the obligor has complied with all other provisions of the support order, it shall notify the Department of Human Services, Office of Administrative Hearings: Child Support, the "OAH", and the OAH 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 the order to the board, the obligor, and the person entitled to child support~~ without the necessity of a hearing.

B. An obligor who is in noncompliance with an order for support may request in writing that the obligor's licenses be reinstated. The Department shall conduct a review and request the OAH to reinstate the obligor's licenses and place on probation pursuant to Section 240.16 of this title if the obligor has:

1. Paid the current child support and the monthly arrearage payments each month for the current month and two months immediately preceding, or paid an amount equivalent to three months of child support and arrearage payments which satisfies the current child support and monthly arrearage payments for the current month and two months immediately preceding;

2. Disclosed all information regarding health insurance availability and obtained and maintained health insurance coverage required by an order for support;

3. Complied with all subpoenas and orders relating to paternity or child support proceedings;

4. Complied with all orders to submit to genetic testing to determine paternity; and

5. Disclosed all employment and address information.

C. An obligor whose written request for reinstatement has been denied by the Department may request a hearing before the OAH. If the OAH determines the requirements of subsection B of this section have been met, the OAH may reinstate the obligor's licenses. If the OAH reinstates the obligor's licenses, the OAH shall order probation pursuant to Section 240.16 of this title.

D. If the obligor fails to comply with the order of probation after the obligor's licenses have been reinstated pursuant to subsection B or C of this section, the obligor's licenses may again be suspended, revoked, not issued or not renewed. The Department may refuse to request the OAH to reinstate the obligor's licenses unless the obligor makes additional payments in an amount determined

by the Department to be sufficient to ensure future compliance and the obligor complies with other terms set by the Department.

E. The Department shall send a copy of the order reinstating the licenses to the licensing board, the obligor and the custodian.

F. Entry of an order to reinstate the obligor's licenses pursuant to subsection A of this section does not limit the ability of a Department the OAH to issue a new order of suspension or revocation of the license of the same obligor or to place the obligor on probation in the event of another delinquency or failure to comply with an order for support.

SECTION 7. AMENDATORY 56 O.S. 2001, Section 240.19, is amended to read as follows:

Section 240.19 A. Upon receipt of an administrative order ~~from the Department of Human Services~~ issued by the OAH to suspend or revoke the license of an obligor or placement of the obligor on probation, the licensing board shall implement the ~~suspension or revocation of the license or probation of the obligor~~ order by:

1. Determining if it has issued a license or has received an application for issuance or renewal of a license to the person whose name appears on the order;

2. Notifying the obligor of the suspension, or revocation, ~~or~~ probation;

3. Demanding the license, if required;

4. Entering the suspension, or revocation, ~~or~~ probation on the appropriate records; and

5. Reporting the suspension, revocation, or probation, as appropriate.

B. An order, issued by the ~~Department~~ OAH, directing the licensing board to suspend or revoke a license ~~or place the obligor on probation~~ shall be processed and implemented by the licensing board without any additional review or hearing, and shall continue until the OAH, the district court, or the appellate court advises the licensing board by order that the suspension or revocation is terminated.

~~C. An order, issued by the Department, directing the licensing board to suspend or revoke the license of the obligor or place the obligor on probation shall be implemented by the licensing board and shall continue until the OAH, the district court, judicial court of review, or Court of Civil Appeals advises the licensing board by order, that the suspension, revocation, or probation is terminated.~~

~~D. The licensing board shall have no jurisdiction to modify, remand, reverse, vacate, or stay the order of the Department for the suspension or revocation of a license, or placing the obligor on probation.~~

~~E. D.~~ In the event of suspension or revocation of a license, ~~or probation of the obligor,~~ any funds paid by the obligor to the licensing board for costs related to issuance, renewal, or maintenance of a license shall not be refunded to the obligor.

~~F. E.~~ The licensing board is exempt from liability to the obligor for activities conducted in compliance with this section.

SECTION 8. REPEALER 56 O.S. 2001, Section 240.18, is hereby repealed.

SECTION 9. This act shall become effective November 1, 2004.

Passed the Senate the 3rd day of March, 2004.

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Presiding Officer of the Senate

Passed the House of Representatives the 12th day of April, 2004.

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Presiding Officer of the House  
of Representatives