

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1360

By: Vaughn

AS INTRODUCED

An Act relating to child support; amending 12 O.S. 2001, Section 1171.3, which relates to income assignments; removing certain procedures; updating language; defining term; specifying certain bases for not requiring immediate income assignment; requiring certain insurance companies to exchange insurance information with Department of Human Services; requiring certain determinations; defining terms; providing for development and implementation of insurance industry data match reporting system; providing purpose; providing for methodology; setting out certain procedures; specifying certain time limitations; authorizing certain withholdings; authorizing certain child support liens; specifying applicability and nonapplicability of certain portions of claims; providing for liability; limiting use of certain information; requiring submission of certain information; requiring certain notification; providing procedures for refusals; authorizing certain contracts; requiring promulgation of rules; amending 43 O.S. 2001, Sections 115, 118, as amended by Section 3, Chapter 314, O.S.L. 2002, 139.1 and 413, as amended by Section 5, Chapter 314, O.S.L. 2002 (43 O.S. Supp. 2002, Sections 118 and 413), which relate to child support orders; providing certain bases for not requiring immediate income withholding; defining term; limiting certain voluntary income assignments; limiting when a complete support order summary form must be presented; modifying definitions relating to revocation, suspensions and other penalties of certain licenses for nonpayment; updating and conforming language; authorizing certain actions; providing for termination upon certain conditions; specifying and modifying certain procedures; authorizing hearings; modifying registry requirements; amending 47 O.S. 2001, Section 6-201.1, which relates to driver licenses; removing certain notification requirements for certain license revocations; modifying procedures and processes; specifying certain conditions for reinstatement; amending 56 O.S. 2001, Sections 237A, 240.15, 240.16, 240.17 and 240.19, which relate to state child support plan; modifying requirement for certain notification and information; modifying procedures for initiation of proceedings for modification to certain license and driving privileges; providing for noncompliance with certain orders; modifying service requirements; authorizing certain hearings; providing for certain determinations; authorizing probation; defining term; authorizing court-ordered payment

plans; modifying notice requirements; removing requirement for certain hearings; providing process and procedures for certain terminations; authorizing certain hearings; requiring implementation of certain orders; specifying procedures; providing for continuation of certain orders; conforming and updating language; repealing 56 O.S. 2001, Section 240.18, which relates to proof of currency of payments; providing for codification; 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~~ In all child support cases arising out of an action for divorce, paternity or other proceedings, the court shall order the wage of the obligor subject to immediate 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. B.~~ 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~~ C 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. C.~~ 1. The notice of income assignment required pursuant to ~~subsections subsection B, C, and D~~ subsection B of this section shall be sent by the applicant to the payor on a standardized form prescribed by the Secretary of the United States Department of Health and Human Services. The notice shall be sent by certified mail, return receipt requested or served according to law. The payor shall be required to comply with the provisions of this subsection 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 amount withheld shall be sent to the person entitled to the support within seven (7) days after the date upon which the obligor is paid. The payor shall include with each payment a statement reporting the date on which the obligor's support obligation was withheld.

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 fails to pay or notify as required herein, the payor may be liable for an amount up to the accumulated amount that is due and owing upon receipt of the notice.

7. 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 required pursuant to subsection € B 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.

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 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 assignment shall remain effective 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 assignment executed pursuant to this section. Any payor who violates this section shall be liable to the obligor for all income, wages, and employment benefits lost by the obligor from the period of unlawful discipline, suspension, discharge, or refusal to promote to the reinstatement or promotion.

~~F~~ D. 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~~ C of this section. Income assignment proceedings shall be available to collect day care and health expense arrearages as well as support alimony payments; provided, child support shall be paid prior to any alimony payments.

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

~~I.~~ G. The income assignment proceedings specified in this section shall be available to other states for the enforcement of support and maintenance or to enforce out-of-state orders. Venue for these proceedings is, at the option of the obligee:

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

~~J.~~ H. 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, or ~~(2)~~
- b. a written agreement is reached between the parties which provides for an alternative arrangement.

3. For purposes of this subsection, any finding that there is good cause not to require immediate income withholding must be based on at least:

- a. a written determination that, and explanation by the court or administrative authority of why, implementing immediate wage withholding would not be in the best interests of the child, and
- b. proof of timely payment of previously ordered support in cases involving modification of support orders.

4. For purposes of this subsection, "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. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7000 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. 1. Prior to making any nonrecurring payment equal to or in excess of Five Hundred Dollars (\$500.00) to a claimant under a contract of insurance, every company authorized to issue policies of insurance pursuant to Title 36 of the Oklahoma Statutes shall exchange information with the Department of Human Services, Child Support Enforcement Division, hereinafter referred to as the Child Support Enforcement Division, as set forth in Section 237 of Title 56 of the Oklahoma Statutes, to ascertain whether the claimant:

- a. owes past due child support to the state or to an individual to whom the Child Support Enforcement Division is providing services, and

b. is subject to a child support lien pursuant to Section 135 of Title 43 of the Oklahoma Statutes.

2. For the purpose of this section, the word "claimant" shall mean an individual who brings a claim against an insured under an insurance policy.

B. The Child Support Enforcement Division, in coordination with the insurance industry in Oklahoma, shall develop and implement an insurance industry data match reporting system. This system shall be operated by the Child Support Enforcement Division and shall use automated data exchanges to the maximum extent feasible to compare claimant information held by insurance companies with the Child Support Enforcement Division's database of child support obligors who owe past due child support.

C. 1. To comply with the requirements of this section, an insurance company shall either provide the Child Support Enforcement Division with information about the claimant or examine information made available by the Child Support Enforcement Division.

2. a. If the company elects to provide the Child Support Enforcement Division with information about each claimant, the company shall provide to the Child Support Enforcement Division, not less than ten (10) business days prior to making payment to such claimant:

- (1) the claimant's name,
- (2) address,
- (3) date of birth,
- (4) social security number as appearing in the company's files, and
- (5) such other information appearing in the company's files as the Child Support Enforcement Division may require by rule.

- b. The company shall use a method and format prescribed by the Child Support Enforcement Division; provided, if the company is unable to use a method and format prescribed, the company shall cooperate with the Child Support Enforcement Division to identify another method or format, including submission of written materials.

3. If the company elects to examine information made available by the Child Support Enforcement Division and such claimant owes past due child support and is subject to a lien, the company shall notify the Child Support Enforcement Division, not less than ten (10) business days prior to making payment to such claimant, of:

- a. the claimant's name,
- b. address,
- c. date of birth,
- d. social security number as appearing in the company's files, and
- e. other information appearing in the company's files as the Child Support Enforcement Division may require by rule,

using a method and format prescribed by the Child Support Enforcement Division.

D. 1. The company shall withhold from the payment the amount of past due support as set forth in the child support lien and shall remit that amount to the Centralized Support Registry as provided by Section 413 of Title 43 of the Oklahoma Statutes.

2. The child support lien shall encumber the right of the claimant to payment under the policy and the company shall disburse to the claimant only that portion of the payment, if any, remaining after the child support lien has been satisfied.

E. This section shall not apply to that portion of a claim:

1. Resulting in payments on behalf of the claimant issued to a third party where there is documentation showing that the third party has provided or agreed to provide the claimant with a benefit or service related to the claim including, but not limited to, the services of an attorney or a health care provider; or

2. Based on damage to or a loss of real property.

F. The provisions of the Employee Retirement Income Security Act limiting, for contracts of insurance, the amounts which may be assigned or attached in order to satisfy child support obligations shall apply to the provisions of this section.

G. 1. A company that fails or refuses to surrender property subject to a child support lien to the Child Support Enforcement Division shall be liable for payment of the amount of the lien which should have been paid to the Child Support Enforcement Division.

2. A company that knowingly fails to exchange information regarding a claim to which this section applies shall be liable in a civil action to the Child Support Enforcement Division in the amount of One Thousand Dollars (\$1,000.00) for each violation.

H. 1. Information provided by the Child Support Enforcement Division to a company pursuant to this section may only be used for the purpose of assisting the Child Support Enforcement Division in collecting past due child support.

2. Any individual or company who uses the information for any other purpose shall be liable in a civil action to the Child Support Enforcement Division in the amount of One Thousand Dollars (\$1,000.00) for each violation.

I. 1. Upon the request of an insurance company, an individual making a claim governed by this section shall provide to the insurance company the individual's:

- a. current address,
- b. date of birth, and
- c. social security number.

2. The company may inform the claimant that the request is being made in accordance with this section for the purpose of assisting the Child Support Enforcement Division in enforcing child support liens arising pursuant to Section 135 of Title 43 of the Oklahoma Statutes.

3. Any individual who refuses to provide the information required by this section shall not receive payment on the claim, and the company that declines payment on this basis shall be exempt from suit and immune from liability under this section or any other section or in any common law action in law or equity.

J. The Department is authorized to enter into any contracts or cooperative agreements necessary to carry out the provisions of this section.

K. An insurance company shall be immune from civil liability to an individual or agency for acting in accordance with this section.

L. The Department of Human Services shall promulgate rules to implement the provisions of this section.

SECTION 3. AMENDATORY 43 O.S. 2001, Section 115, is amended to read as follows:

Section 115. A. Every order providing for the support of a minor child or a modification of such order, whether issued by a district court or an administrative court, shall contain an immediate income assignment provision 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, regardless of whether support payments by such parent are in arrears.

B. 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, the district court shall order the wage of the obligor subject to immediate income assignment, regardless of whether support payments by such parent are in arrears, unless:

1. One of the parties demonstrates and the district court finds there is good cause not to require immediate income withholding. For purposes of this paragraph, any finding that there is good cause not to require immediate income withholding must be based on at least:

a. a written determination that, and explanation by the court or administrative authority of why, implementing immediate wage withholding would not be in the best interest of the child, and

b. proof of timely payment of previously ordered support in cases involving the modification of support orders;

or

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

C. ~~The~~ If the obligated party is not already subject to an income assignment order, the obligated party may execute a voluntary income assignment at any time. The voluntary assignment shall be filed with the district or administrative court and shall take effect after service on the payor, as required by Section 1171.3 of Title 12 of the Oklahoma Statutes.

SECTION 4. AMENDATORY 43 O.S. 2001, Section 118, as amended by Section 3, Chapter 314, O.S.L. 2002 (43 O.S. Supp. 2002, 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. 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.
- c. 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. 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 When services are not being provided under the Department of Human Services State IV-D plan pursuant to Section 237 of Title 56 of the Oklahoma Statutes, 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 5. 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 relating to paternity or child support proceedings;

3. "Order for support" means any judgment or order for the support of dependent children 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 or comply with other support obligations pursuant to 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 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 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, not issue, or not renew 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~~ If the obligor enters into a court-ordered payment plan to repay any past due support and provides evidence to the court that he has otherwise complied with the order, 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 licensing board shall not be notified and no action is required of the licensing board.

D. 1. When the obligor provides proof to the court ~~determines~~ that the support debt ~~or,~~ past due support and support obligation is paid in full, ~~or that~~ and the obligor ~~has complied~~ is in compliance with the order for support, including obtaining and maintaining health insurance required by an order for support, and complying with the any subpoena or warrant relating to paternity or child support, it the court shall ~~direct the licensing board to~~ terminate the order of suspension, revocation, nonissuance or nonrenewal of the license or probation of the obligor.

2. When the obligor has complied with the order for support for at least ninety (90) days, including but not limited to making current support payments and payments in accordance with a payment plan, and obtaining and maintaining health insurance required by an order for support, and complying with any subpoenas or warrants relating to paternity or child support proceedings, the court may terminate the order of suspension, revocation, nonissuance, or nonrenewal of the license. If the court terminates the order, it shall place the obligor on probation, conditioned upon the obligor's full compliance with the order for support and any subpoenas or warrants relating to paternity or child support proceedings.

3. The obligor may request a hearing to determine if a medically proven mental or physical disability exists which prevents the obligor from complying with the order for support or a subpoena or warrant relating to paternity or child support proceedings. If the court finds that the disability exists it may terminate the order of suspension, revocation, nonissuance, or nonrenewal, or order of probation.

4. The court shall send a copy of the order to the licensing board, the obligor and the person entitled to support.

~~2.~~ 5. Entry of this termination 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.~~

~~2.~~ Before 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, before the court orders termination of probation or removal of a suspension, revocation, nonissuance or nonrenewal, the court obligor 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~~ in compliance with the order for support and with any subpoena or warrant relating to paternity or child support proceedings, or that the obligor has a medically proven mental or physical disability which prevents the obligor from complying. Such notice shall also include an opportunity for the person entitled to child support to protest the ~~termination, removal, issuance or renewal~~ of the order of suspension, revocation, nonissuance or nonrenewal, upon a claim and proof that the obligor is not ~~current in the obligor's payments or has not complied~~ in compliance with the order for support and with any subpoena or warrant.

2. 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~~ in compliance with the order for support and with any subpoena or warrant relating to paternity or child support proceedings, or that the obligor has a medically proven mental or physical disability which prevents the obligor from complying.

F. Upon receipt of a court order to suspend ~~or,~~ revoke, not issue or not renew 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. 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. 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, or judicial 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. 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. 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. 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.

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

M. The licensing board is exempt from liability to the obligor for activities conducted in compliance with this act.

SECTION 6. AMENDATORY 43 O.S. 2001, Section 413, as amended by Section 5, Chapter 314, O.S.L. 2002 (43 O.S. Supp. 2002, Section 413), is amended to read as follows:

Section 413. A. 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; and

2. In all other cases in which support is being paid ~~by~~ pursuant to an Oklahoma notice for income withholding.

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. 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. 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 information as directed by the Department of Human Services necessary to properly allocate and distribute the payments.

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 promulgate rules as necessary to implement the provisions of this section.

SECTION 7. AMENDATORY 47 O.S. 2001, 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 Office of Administrative Hearings: Child Support of the Department of Human Services, hereinafter referred to as "~~CAH~~" "Office of Administrative Hearings", 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 ~~CAH~~ Office of Administrative Hearings finds that a person is not in compliance with an order of child support, the court or the ~~CAH~~ Office of Administrative Hearings, 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 ~~CAH~~ Office of Administrative Hearings. An order of the court or the ~~CAH~~ Office of Administrative Hearings, 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 prepare and distribute the Notification form to be used by the courts and the ~~CAH~~ Office of Administrative Hearings.

2. In addition to the Department of Public Safety, the court or the ~~CAH~~ Office of Administrative Hearings, 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.~~

D. 1. Upon receipt of the Notification of Revocation from a court or the ~~OAH~~ Office of Administrative Hearings, 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.

2. The Department shall not reinstate the person's driving privilege until:

- a. the court or the Office of Administrative Hearings authorizes reinstatement of the person's driving privilege, and
- b. 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.

~~E. 1. The court or the OAH may modify the revocation order in cases of extreme and unusual hardship when it is determined by the court or the OAH, as applicable, that no other adequate means of transportation exists for the person whose driving privilege has been revoked to allow driving in any or all of the following situations:~~

- ~~a. to and from a place of employment or in search of employment,~~
- ~~b. to and from a child care facility, providing the person is a parent or legal guardian with no other means of transporting the child so the parent or legal guardian can maintain employment,~~
- ~~c. to and from a medical facility in the event of an emergency,~~
- ~~d. in the course of employment,~~
- ~~e. to and from an educational institution for the purpose of attending classes if the person is enrolled and regularly attending classes at such institution, or~~
- ~~f. to permit the person to comply with any existing court order.~~

~~2. The modification order shall state the circumstances under which driving is permitted.~~

~~3. Upon receipt of a written modification order from the court or the OAH, as applicable, and the payment to the Department of a modification fee of One Hundred Dollars (\$100.00), the Department shall modify the revocation order as provided in the modification order. In the modification order, the Department of Public Safety shall specify the specific times of the day or night based on the circumstances set out in the order, that the person owing child support may drive. Upon the application of such person and upon a showing of good cause, such times may be modified due to employment, course of employment or other reason authorized by the Department of Public Safety.~~

~~F. If the court or the OAH Office of Administrative Hearings, 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.~~

2. 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 8. 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 Department has confirmed in another proceeding within the past six (6) months the total amount of past due support pursuant to the support order or orders, 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 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 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 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 is authorized to ~~order~~ initiate proceedings for 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. The Office of Administrative Hearings: Child Support of the Department of Human Services, hereinafter referred to as "Office of Administrative Hearings", is authorized to order the revocation, suspension, nonissuance, or nonrenewal of a license, or placement of the obligor on probation, who is not in compliance with an order for support. Further, pursuant to Section 6-201.1 of Title 47 of the Oklahoma Statutes, the Office of Administrative Hearings is authorized to order the revocation, suspension, nonissuance, or nonrenewal of a driver license and driving privileges of an obligor who is not in compliance with an order for support.

3. 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 central case registry, as provided for in subsection C of~~ Section 112A of Title 43 of the Oklahoma Statutes.

3. The notice shall state that the obligor's license will be suspended ~~or~~, revoked, not issued or not renewed 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 for support, and
- c. complies with any subpoena or warrant relating to paternity or child support proceedings, or
- d. appears and shows cause in a hearing before the Department Office of Administrative Hearings that suspension or, revocation, nonissuance or nonrenewal of a license, or probation is not appropriate.

C. To show cause why suspension ~~or~~, revocation, nonissuance or nonrenewal 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, nonissuance or nonrenewal of the obligor's license, or probation is appropriate.

E. ~~The only issues that may be determined in 1. At a hearing under this section are,~~ the Office of Administrative Hearings shall determine 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 suspension, revocation, nonissuance or nonrenewal of a license, or probation, is appropriate.

2. If the obligor has entered into a payment plan for any past due support and has provided evidence to the Office of Administrative Hearings that the obligor is otherwise in compliance with the order for support, the Department Office of Administrative Hearings may provide for probation pursuant to Section 240.16 of this title.

3. If the Office of Administrative Hearings determines that the obligor is in noncompliance with an order for support and the obligor has not entered into a payment plan for any past due support, the Office of Administrative Hearings shall issue an order for revocation, suspension, nonissuance or nonrenewal of the obligor's licenses and driving privileges and order the obligor to refrain from engaging in the licensed activity.

4. The Department shall send a copy of the order of revocation, suspension, nonissuance or nonrenewal of a license and driving privileges to the licensing board and to the obligor. If the court orders probation, the licensing board shall not be notified and no action is required of the licensing board.

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 issued pursuant to this section, 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 Office of Administrative Hearings 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~~ Office of Administrative Hearings 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.

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

~~I.~~ I. The ~~Department~~ Office of Administrative Hearings 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~~ Office of Administrative Hearings, revoke, suspend, or refuse to renew or reissue the license and driving privileges of the named individual ~~or place the obligor on probation.~~

~~J.~~ 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~~ make:

1. 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~~ ;

2. Make full payments pursuant to a court-ordered payment plan for at least ninety (90) days ~~or has failed to obtain~~ ;

3. Obtain or maintain health insurance coverage for at least ninety (90) days as required by a support order; or

4. Comply, after receiving proper notice, with subpoenas or warrants relating to paternity or child support proceedings.

SECTION 10. 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 4 240.15 of this ~~act~~ title, 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~~ enters into a court-ordered payment plan to repay any past due support and provides evidence to the court that the obligor is otherwise in compliance with the order for support, the ~~Department~~ Office of Administrative Hearings may place the obligor on probation and allow the obligor to practice or continue to practice his 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~~ Office of Administrative Hearings 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 11. AMENDATORY 56 O.S. 2001, Section 240.17, is amended to read as follows:

Section 240.17 A. 1. When the Department of Human Services determines that the support debt, past due support, ~~or~~ and support obligation is paid in full and the obligor is in compliance with the order for support, including but not limited to obtaining and maintaining health insurance coverage required by an order for

support, and complying with any subpoenas or warrants relating to paternity or child support proceedings, ~~it~~ the Department shall notify the Office of Administrative Hearings and the Office of Administrative Hearings shall terminate the order of suspension, revocation, nonissuance, or nonrenewal of the license or the order of probation without the necessity of a hearing.

2. a. When the obligor has complied with the order for support for at least ninety (90) days, including but not limited to making current support payments and payments in accordance with a payment plan, obtaining and maintaining health insurance coverage required by an order for support, and complying with any subpoenas or warrants relating to paternity or child support proceedings, at the request of the Department, the Office of Administrative Hearings shall terminate the order of suspension, revocation, nonissuance or nonrenewal of the license without the necessity of a hearing. If the Office of Administrative Hearings terminates the order it shall order probation pursuant to Section 240.16 of this title.
- b. The obligor may request a hearing before the Office of Administrative Hearings on the basis that the obligor has complied with the order for support for at least ninety (90) days. If the Office of Administrative Hearings determines that the obligor has complied with the order for support for at least ninety (90) days, including making current support payments and payments in accordance with a payment plan, obtaining and maintaining health insurance coverage required by an order for support, and complying with any subpoenas or warrants relating to paternity or child support proceedings, the Office of Administrative Hearings may

terminate the order of suspension, revocation, nonissuance or nonrenewal of the license. If the Office of Administrative Hearings terminates the order it shall order probation pursuant to Section 240.16 of this title.

3. The obligor may request a hearing before the Office of Administrative Hearings to determine if a medically proven mental or physical disability exists which prevents the obligor from complying with the order for support, or a subpoena or warrant relating to paternity or child support proceedings. If the Office of Administrative Hearings finds that the disability exists, it may terminate the order of suspension, revocation, nonissuance or nonrenewal or order of probation.

4. The Department shall send a copy of the termination order to the any board which has been notified to revoke, suspend, not issue or not renew the obligor's license, the obligor, and the person entitled to child support.

B. Entry of an order pursuant to subsection A of this section does not limit the ability of ~~a Department~~ the Office of Administrative Hearings to issue a new order of suspension ~~or~~, revocation, nonissuance or nonrenewal of the license of the same obligor or place the obligor on probation in the event of another delinquency or failure to comply.

SECTION 12. 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 Office of Administrative Hearings 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~~ by:

1. Determining if it has issued 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, or revocation, ~~or~~ probation, as appropriate.

B. Upon receipt of an administrative order issued by the Office of Administrative Hearings to not issue or not renew the license of an obligor, the licensing board shall implement the nonissuance or nonrenewal 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 administrative order;

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

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

C. An order, issued by the ~~Department~~ Office of Administrative Hearings, directing the licensing board to suspend ~~or~~, revoke, not issue or not renew 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 Office of Administrative Hearings, district court, or judicial court of review advises the licensing board by order that the suspension, revocation, nonissuance or nonrenewal 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, nonissuance or nonrenewal of a license, ~~or placing the obligor on probation.~~

E. In the event of suspension ~~or~~, revocation, nonissuance or nonrenewal 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. The licensing board is exempt from liability to the obligor for activities conducted in compliance with this section.

SECTION 13. REPEALER 56 O.S. 2001, Section 240.18, is hereby repealed.

SECTION 14. 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.

49-1-6000 KSM 01/15/03