

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

HOUSE BILL HB2526:

Vaughn

AS INTRODUCED

An Act relating to children; amending 10 O.S. 2001, Section 7003-8.7, which relates to the Oklahoma Children's Code; modifying method of reimbursement of certain expenses for services performed on behalf of a deprived child; clarifying type of expenses; removing certain court discretion; modifying who may receive payments; providing for payment of child support for deprived children; providing for orders establishing paternity; providing for content; providing for filing and procedures thereto; providing for confidentiality; providing for determination of child support; specifying enforcement procedures; requiring promulgation of rules; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7003-8.7, is amended to read as follows:

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

1. a. ~~Pay for the care and maintenance of the child, including, but not limited to, all or some part of placement services, medical care and mental health services, as authorized by law.~~
- b. ~~If there is an existing order for support, the existing order shall remain in effect unless the court finds the order is not in the best interests of the child involved. If the court finds the order is not~~

~~in the best interests of the child, or there is not an existing order for the parent to pay support, the court shall, pursuant to Sections 118 and 119 of Title 43 of the Oklahoma Statutes, determine the amount the parent is to pay for the care and maintenance of the child and issue an order describing the court's finding.~~

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

~~2. Reimburse the Department of Human Services, in whole or in part, for any costs and expenses incurred by the Department in~~

providing any services or authorizing actions taken pursuant to the Oklahoma Children's Code for the child including, but not limited to, all or some part of placement services, medical care and mental health services of a child, as authorized by law;

~~3.~~ 2. Reimburse any law enforcement agency, in whole or in part, for any costs or expenses incurred by the law enforcement agency for protective custody services or other authorized actions taken pursuant to the Oklahoma Children's Code; and

~~4.~~ 3. Reimburse the court fund, in whole or in part, for any disbursements made from the court fund in conjunction with the case, including, but not limited to, court-appointed attorney fees, expert witness fees, sheriff's fees, witness fees, transcripts and postage.

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

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

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

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

may resort to execution and the power of punishment for contempt for noncompliance with such order.

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

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

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

~~F.~~ E. 1. The Department may effectuate an order for payment of any costs and expenses authorized pursuant to this section against any asset of the parent. Any assignment, attachment, garnishment, or lien against such assets shall be served upon the person in possession of the assets or shall be recorded in the office of the county clerk in the county in which the parent resides or in which the asset is located.

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 7003-8.8 of Title 10, unless there is created a duplication in numbering, reads as follows:

A. 1. When paternity of an alleged or adjudicated deprived child is at issue, the court shall either establish paternity or refer the issue of paternity establishment to the Department of Human Services Child Support Enforcement Division for any child for whom paternity has not been legally established according to Section 70 of Title 10 of the Oklahoma Statutes.

2. After the establishment of paternity, the court shall address the issue of current child support pursuant to subsection B of this section. In addition, the court may:

- a. order the father to pay child support for past months when no child support order was in effect according to the provisions of Section 83 of Title 10 of the Oklahoma Statutes, or
- b. reserve or refer the issue of prior support to the Department of Human Services Child Support Enforcement Division.

3. The order establishing paternity shall be filed as a separate document and shall not be confidential. The order may be captioned with a different case style in order to establish and enforce a child support order in an action other than the deprived proceeding.

B. 1. Each parent of any child named in a deprived petition shall be given notice in the petition and summons that child support shall be ordered or modified in the deprived action.

2. Within six (6) months after the filing of a deprived petition, the court shall either order child support or refer the issue of establishment or enforcement of child support to the Department of Human Services Child Support Enforcement Division.

3. a. If there is an existing order for child support, the existing order shall remain in effect unless the court finds the existing order is not in the best interests of the child or children involved.

- b. The court shall use the child support guidelines as provided for in Sections 118 and 119 of Title 43 of the Oklahoma Statutes in determining the amount each parent is to pay for care and maintenance of a child and issue an order describing the finding of the court.
- c. The court may deviate from the child support guidelines when it is determined necessary in order for the parent to meet the obligations of a court-imposed individual treatment and service plan or for other reasons as the court deems appropriate. If the 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.
- d. Each parent shall be individually ordered to pay his or her percentage of the total monthly child support obligation including parents who reside together.
- e. The court shall order the parent to provide medical insurance whenever the parent has insurance available through employment or other group plan, regardless of whether insurance is available at the time the order is entered.
- f. The child support order shall contain an immediate income assignment provision pursuant to Section 115 of Title 43 of the Oklahoma Statutes.
- g. A child support computation form as provided for in Section 120 of Title 43 of the Oklahoma Statutes shall be signed by the judge and incorporated as a part of the child support order.
- h. The child support order shall be filed as a separate document and shall not be confidential. The order may

be captioned with a different case style in order to enforce the child support order in an action other than the deprived proceeding.

- i. The child support order may be modified upon a material change in circumstances.
- j. The child support order may be enforced by any method allowed by law.
- k. After a deprived action is dismissed, the most recent child support order entered in the deprived action shall remain in full force and effect, unless the judge presiding over the deprived action orders otherwise. If there was no prior administrative or district court case, the deprived action child support order shall be docketed and filed in a new district court family division action and enforced for current child support and arrearages. If the judge presiding over the deprived action modified a preexisting child support order or if there was an existing administrative or district court case, the child support order entered in the deprived action shall be filed in the existing case and enforced for current child support and arrearages. The child support order may be modified after being docketed in district court.

C. All child support payments shall be paid through the Oklahoma Centralized Support Registry as provided for in Section 413 of Title 43 of the Oklahoma Statutes.

D. When a child's placement is changed from one caretaker to another pursuant to the Oklahoma Children's Code, the change in placement shall transfer child support payments to the new caretaker unless the caretaker is receiving foster care payments or Temporary Assistance to Needy Families payments for the care of the child.

Child support payments to the caretaker shall terminate when the child no longer resides with the caretaker.

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

SECTION 3. 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.

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