ENGROSSED HOUSE
BILL NO. 1303

By: Trebilcock and Nance of the House

and

Crain of the Senate

An Act relating to children; amending 10 O.S. 2001, Section 7303-7.6, which relates to reimbursement of care, maintenance, costs, and expenses of child; modifying authority of court; modifying language; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7303-7.6, is amended to read as follows:

Section 7303-7.6 A. In any hearing concerning the status of a child, the court, if the court determines the parent is able to pay, shall ~~have authority to~~ adjudge the parent, who has been served with notice of the hearing, liable and accountable for the care and maintenance of any child or children, and to:

1. 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;

2. 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, and reasonable monthly expenses, as authorized by law;

3. Assign the benefits of medical insurance coverage for the child to the Department of Juvenile Justice for the period of time the child is in the custody of the Department of Juvenile Justice;

4. Reimburse the Department of Juvenile Justice, in whole or in part, for any costs and expenses incurred by the Department in providing any services or authorized actions taken pursuant to the Juvenile Justice Code for the child; and

5. Reimburse any law enforcement agency, in whole or in part, for any costs or expenses incurred by the law enforcement agency for custodial services or other authorized actions taken pursuant to the Juvenile Justice Code.

B. 1. The court shall use the child support guidelines provided for in Section 118 of Title 43 of the Oklahoma Statutes in determining the amount a parent is to pay for care and maintenance of a child. If any parent is financially able but has willfully failed to pay any costs or 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.

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

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 may order ~~such~~ the payments and reimbursements paid in installments.

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

D. 1. 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. The court may order support payments to be made direct to the person, organization or institution having the care and custody of the child or children, or, pursuant to Section 413 of Title 43 of the Oklahoma Statutes, to the Department of Human Services Centralized Support Registry.

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 any unused or unaccrued portion of ~~such~~ the payment shall be returned by proper voucher, or the refund may be authorized and paid on claim properly verified and approved by the judge.

E. 1. The Department may effectuate the order for payment of any costs and expenses authorized pursuant to the provisions of this section against any asset of the parent. Any assignment, attachment, garnishment, or lien against ~~such~~ the 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 Section 7302-2.1 of this title, the Department may contract on a contingency fee basis with private attorneys for the collection and enforcement of orders against ~~such~~ the assets. Any ~~such~~ third-party payment shall be paid directly to the Department.

F. When there is an existing order which provides for payment of child support, and the Department of Juvenile Justice places physical custody of the child with any person or facility without obtaining a modification of the child support order, the change in placement, by operation of law, shall create a presumption that ~~such~~

the person or entity with whom the child was placed has legal physical custody of the child for the purposes of the payment of child support, unless the person or entity is receiving foster care payments or payments for care of the child pursuant to contract with the Office of Juvenile Affairs.

SECTION 2. This act shall become effective November 1, 2005.

Passed the House of Representatives the 15th day of March, 2005.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2005.

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Presiding Officer of the Senate