ENGROSSED SENATE
BILL NO. 648

By: Laster and Leftwich of the Senate

and

Harrison of the House

An Act relating to poor persons; amending 56 O.S. 2001, Sections 237, 240.1, 240.3 and 240.12, which relate to child support; clarifying reference; authorizing appeal of certain orders by the Oklahoma Department of Human Services; modifying requirements related to release of certain information; modifying information requested from certain entities; establishing compliance with certain requests; repealing 56 O.S. 2001, Section 225, as amended by Section 3, Chapter 19, O.S.L. 2003 (56 O.S. Supp. 2004, Section 225), which relates to Child Support Revenue Enhancement Fund; and providing an effective date.

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

SECTION 1. AMENDATORY 56 O.S. 2001, Section 237, is amended to read as follows:

Section 237. A. The Oklahoma Department of Human Services, hereinafter referred to as "Department", as the single state agency designated to administer a statewide plan for child support, is authorized, in accordance with Title IV, Part D, of the Federal Social Security Act, as amended, 42 U.S.C., Section 651 et seq., to provide child support services, parent location services, and paternity determination services to enable participation in programs established by federal law.

B. The Department is authorized to:

1. Accept, transfer, and expend funds made available by the government of the United States, the State of Oklahoma, and public or private sources, for the purpose of carrying out the provisions of this section;

2. Adopt rules for child support services;

3. Initiate legal actions ~~needed~~ and appeal orders as necessary to implement the provisions of this section;

4. Enter into contracts or agreements necessary to administer this section; and

5. Require agencies and political subdivisions of this state, its counties and municipalities, persons, sole proprietorships, corporations, utilities, partnerships, associations, organizations, and other legal entities doing business in this state to provide information to the Child Support Enforcement Division to assist in locating individuals and in establishing and enforcing court orders.

C. 1. An applicant for or recipient of Temporary Assistance for Needy Families, hereinafter referred to as "recipient", shall be required to assign to the Department any rights to or support from any other person which the recipient may have or for a child for whom the recipient is applying or receiving assistance in accordance with federal regulations and state law.

2. When an order has been entered which provides for payment of child support and the obligee pursuant to the order relinquishes physical custody of the child to another custodian, without obtaining a modification of the order to change custody or to redirect the support to the new custodian, the relinquishment shall transfer the child support obligation pursuant to the order to the new custodian or the Department if services are being provided under the state child support plan as provided in this section. The transfer of the obligation shall terminate when the new custodian no longer has physical custody of the child, except for the amount of unpaid support still owing to the custodian or to the Department.

3. In all cases in which support services are being provided under the state child support plan as provided in this section, support payments shall be made by the obligor to the Department or its designee. If a court has ordered support payments to be made to the recipient or to the applicant, the Department may send a notice

of the assignment or application to the obligor requiring that all support payments be made to the Division or its designee. The notice shall include:

a. a statement that the assignment or application has been made,

b. the style and number of the case in which support was ordered,

c. a statement that all payments so ordered shall be made to the Department or its designee, and

d. a statement that the obligor's earnings and income are assigned for collection of support monies owed.

4. A notice to redirect the payments shall be sent to the obligor by regular mail with proof of mailing from the United States Postal Service. If, after notice of the redirection, the obligor does not make payments to the Department as provided in the notice, the payments shall not be credited to the amount owed. The obligor shall notify the Department of any change of address, the name and address of the current employer, and access to health insurance and other insurance policy information within thirty (30) days of any change.

D. When the right to receive support has been assigned to the Child Support Enforcement Division or upon proper application by an obligor or by an individual not receiving Temporary Assistance for Needy Families, the Division may petition the district court or the Office of Administrative Hearings: Child Support, an administrative court of the Oklahoma Department of Human Services, for an order:

1. Requiring the obligor to provide health insurance for the dependent children whenever it is available through employment or other group plan regardless of whether the obligor has insurance coverage available at that time or there has been a change of circumstances;

2. Establishing paternity;

3. Requiring medical support, child support, or other support;

4. Enforcing orders for paternity, medical support, child support, or other support;

5. Requiring that the obligor keep the Division informed of the name and address of the current employer of the obligor and of any health insurance or other insurance policy information of the obligor within thirty (30) days of any change;

6. Providing for collection and distribution of child support monies; and

7. Assisting in the location of absent parents and their assets, in cooperation with federal agencies, other agencies of this state and of other states, territories, and foreign nations requesting assistance with the enforcement of support orders entered in the United States and elsewhere.

E. The Division may petition the district or administrative court to modify any order for support regardless of whether there has been a change of circumstances.

F. A reasonable fee and costs may be assessed for services to individuals not receiving Temporary Assistance for Needy Families pursuant to rules adopted by the Department.

G. Child support payments made to the Division pursuant to this section shall be deposited in the Child Support Escrow Account for distribution as may be required by Section 235 of this title, or by 42 U.S.C., Section 651 et seq. Fees or reimbursements of costs collected by the Department shall be deposited in the Administration Fund of the Department and may be used and expended by the Department for the purposes of carrying out the provisions of this section.

H. Except as otherwise authorized by law, all files and records concerning the assistance and services provided under this section or concerning a putative father of a child born out of wedlock are confidential. Release of information from the files and records

shall be consistent with federal law and shall be restricted to purposes directly connected with the administration of the child support collection, paternity determination, parent location, or ~~Temporary Assistance for Needy Families~~ other public assistance programs. Information may be released to public officials under rules adopted by the Department, consistent with federal rules or regulations.

SECTION 2. AMENDATORY 56 O.S. 2001, Section 240.1, is amended to read as follows:

Section 240.1 A. 1. In cases in which child support services are being provided by the Child Support Enforcement Division of the Oklahoma Department of Human Services, the Division may:

a. initiate enforcement proceedings to:

(1) obtain a judgment for arrearages,

(2) effectuate an income assignment,

(3) receive current support and judgment payments, and

(4) review and modify support orders pursuant to child support guidelines in Section 118 of Title 43 of the Oklahoma Statutes, ~~and~~

b. initiate any other legal proceeding to implement the establishment and collection of support and other court-ordered requirements of support from an obligor including, but not limited to, medical expenses, insurance premiums, and child care costs, and

c. appeal orders as necessary to implement the provisions of this section.

2. In any hearing on a notice of delinquency or other enforcement proceeding, the district or administrative court may include the amount of the child support services fee paid by the applicant in any judgment against the obligor.

B. The Division is authorized to initiate enforcement proceedings and receive payments pursuant to Section 237A and 240.2 of this title to effectuate an income assignment and payment plan for:

1. Spousal support or the support of a child or both for an applicant or any person who is the recipient of Temporary Assistance for Needy Families (TANF) program; and

2. Any debt due and owing to the person entitled to receive enforcement support services by the Department or to this state by a natural or adoptive parent or other person who is or was responsible for the support of a child pursuant to Section 238 of this title, or found to be responsible for the support of a child pursuant to Sections 238.1 through 238.6 of this title.

C. Upon application by an obligor who requests support enforcement services from the Department, the Division is authorized to initiate any proceedings necessary to provide support enforcement services to the obligor and to receive payments of the support obligation or any judgment.

D. The Director has the authority to enter orders in situations as defined in Section 240.23 of this title, without the necessity of obtaining an additional signature of a district or administrative judge.

E. The Division is authorized to refer any judgment for child support to the Secretary of Health and Human Services for passport denial, revocation, restriction, or limitation pursuant to federal law or regulation.

SECTION 3. AMENDATORY 56 O.S. 2001, Section 240.3, is amended to read as follows:

Section 240.3 A. 1. Final orders of the ~~OAH~~ Office of Administrative Hearings may be appealed to the district court pursuant to this section and Sections 318 through 323 of Title 75 of the Oklahoma Statutes by any party directly affected and showing

aggrievement by the order, or by the Oklahoma Department of Human Services.

2. An appeal shall be commenced by filing a petition in error with the clerk of the district court in the county of the underlying district court order, if any, or if there is no underlying district court order filed in this state, the petition in error shall be filed in the county of residence of the custodian of the child, or if the custodian resides out-of-state, in the county of residence of the obligor within thirty (30) days from the date the order is either provided in person or mailed by OAH to all parties. The time limit prescribed in this paragraph for filing the petition in error shall not be extended. The petition in error shall be served by certified mail on the district child support office. Further, a copy of the petition in error shall be mailed by regular mail to the Office of Administrative Hearings: Child Support.

3. The manner of perfection of the record of the proceedings to be reviewed and the time for its completion shall be in accordance with rules prescribed by the district court.

4. The appeal shall not stay the execution of any order of the OAH unless the district court, for cause shown, shall order the administrative order be stayed pending such appeal pursuant to Section 319 of Title 75 of the Oklahoma Statutes.

5. The district court may affirm the decision or remand the case for further proceedings. Additionally, the district court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the findings, inferences, or conclusions are not supported by substantial evidence in the record.

B. If an appeal pursuant to subsection A of this section is not made by the person to whom such an order is directed within thirty (30) days from the date the order is either provided in person or mailed by OAH to all parties, the order of the administrative court shall become final and binding on all parties. The order shall be

filed in the office of the court clerk in the county of the residence of the custodian of the child or, if the custodian resides out of state, in the county of the residence of the obligor, or elsewhere as provided in this act. The administrative order shall be enforced by the district court in the same manner as an order of the district court.

C. The certified transcript, exhibits, pleadings, recordings of the hearing and any written orders may constitute the record on appeal to the district court. OAH shall prepare or direct the preparation of the official transcript by a licensed court reporter, if a transcript is requested. The party seeking a copy of the transcript of the hearing shall prepay all costs of transcription and pay a reasonable deposit or provide adequate indemnity prior to preparation of the transcript. If a party is financially unable to pay the transcription costs, the party shall provide OAH and the district office with an in forma pauperis affidavit which verifies the inability to pay. If OAH determines the party is financially unable to pay transcription costs, a transcript will be provided by OAH. The transcript shall not be provided prior to full payment, payment of a deposit, provision of adequate indemnity for all transcription costs, or an order finding OAH will bear the costs of transcription.

SECTION 4. AMENDATORY 56 O.S. 2001, Section 240.12, is amended to read as follows:

Section 240.12 A. Each agency of the state or any political subdivision thereof shall provide information requested by the Oklahoma Department of Human Services when the Department is attempting to establish, modify, or enforce a child support order. Requested information may include, but shall not be limited to:

1. The name, address, telephone number, social security number or other identifying information of any individual;

2. Information regarding the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor;

~~2.~~ 3. Vital statistics, including records of marriage, birth, and divorce;

~~3.~~ 4. State and local tax and revenue records, including information on residence address, employer, income, and assets;

~~4.~~ 5. Records containing real and titled personal property;

~~5.~~ 6. Records of recreational, occupational and professional licenses; ~~and records~~

7. Records concerning the ownership and control of corporations, partnerships, and other business entities;

~~6.~~ 8. Employment security records;

~~7.~~ 9. Records of agencies administering public assistance programs;

~~8.~~ 10. Records of the Department of Corrections; ~~and~~

11. Records of court actions or claims; and

~~9.~~ 12. The Division shall have access to the Oklahoma Law Enforcement Telecommunications Systems network as created in Section 2-124 of Title 47 of the Oklahoma Statutes.

B. Each corporation or other business operating in this state, including for-profit and not-for-profit businesses, shall provide information requested by the Oklahoma Department of Human Services when the Department is attempting to establish, modify, or enforce a child support order. Requested information may include, but shall not be limited to:

1. The name, address, telephone number, social security number or other identifying information of any individual;

2. Information regarding the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor;

~~2.~~ 3. The ~~names and addresses~~ name, address, social security number or other identifying information of such individuals and the names and addresses of the employers of such individuals, as appearing in customer records of public utilities, including 911 emergency records, and cable television companies, pursuant to ~~an administrative subpoena~~ a written request of the Department; ~~and~~

~~3.~~ 4. Information, including information on assets and liabilities on such individuals held by financial institutions; and

5. Information regarding claims for injury to persons or property.

C. The entities described above should provide automated access in the case of records maintained in ~~automated data bases~~ electronic format. To comply with a request of the Department, such entities may:

1. Provide to the Department the list of all individuals in its records for the Department to compare against its records for the purpose of identifying individuals for whom the Department is attempting to establish, modify or enforce a child support order; or

2. Obtain a list of individuals against whom the Department is attempting to establish, modify or enforce a child support order and compare against the entity's records to identify matching individuals. The Department shall provide the list of child support parties in electronic media format.

D. An entity that provides information to the Department in good faith or takes any other action in good faith in an attempt to comply with the provisions of this section shall not be liable to any individual for disclosing such information.

SECTION 5. REPEALER 56 O.S. 2001, Section 225, as amended by Section 3, Chapter 19, O.S.L. 2003 (56 O.S. Supp. 2004, Section 225), is hereby repealed.

SECTION 6. This act shall become effective November 1, 2005.

Passed the Senate the 2nd day of March, 2005.

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Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2005.

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Presiding Officer of the House
of Representatives