

3 Senate Bill No. 648

4 SENATE BILL NO. 648 - By: LASTER of the Senate and HARRISON of the  
5 House.

6 An Act relating to poor persons; amending 56 O.S. 2001,  
7 Sections 237, 240.1, 240.3 and 240.12, which relate to child  
8 support; clarifying reference; authorizing appeal of certain  
9 orders by the Oklahoma Department of Human Services;  
10 modifying requirements related to release of certain  
11 information; modifying information requested from certain  
12 entities; establishing compliance with certain requests;  
13 repealing 56 O.S. 2001, Section 225, as amended by Section  
14 3, Chapter 19, O.S.L. 2003 (56 O.S. Supp. 2004, Section  
15 225), which relates to Child Support Revenue Enhancement  
16 Fund; and providing an effective date.

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

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

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

28 B. The Department is authorized to:

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

5        2. Adopt rules for child support services;

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

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

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

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

22       2. When an order has been entered which provides for payment of  
23 child support and the obligee pursuant to the order relinquishes

1 physical custody of the child to another custodian, without  
2 obtaining a modification of the order to change custody or to  
3 redirect the support to the new custodian, the relinquishment shall  
4 transfer the child support obligation pursuant to the order to the  
5 new custodian or the Department if services are being provided under  
6 the state child support plan as provided in this section. The  
7 transfer of the obligation shall terminate when the new custodian no  
8 longer has physical custody of the child, except for the amount of  
9 unpaid support still owing to the custodian or to the Department.

10 3. In all cases in which support services are being provided  
11 under the state child support plan as provided in this section,  
12 support payments shall be made by the obligor to the Department or  
13 its designee. If a court has ordered support payments to be made to  
14 the recipient or to the applicant, the Department may send a notice  
15 of the assignment or application to the obligor requiring that all  
16 support payments be made to the Division or its designee. The  
17 notice shall include:

- 18 a. a statement that the assignment or application has  
19 been made,
- 20 b. the style and number of the case in which support was  
21 ordered,
- 22 c. a statement that all payments so ordered shall be made  
23 to the Department or its designee, and

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

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

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

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

23           2.    Establishing paternity;

1           3. Requiring medical support, child support, or other support;  
2           4. Enforcing orders for paternity, medical support, child  
3 support, or other support;  
4           5. Requiring that the obligor keep the Division informed of the  
5 name and address of the current employer of the obligor and of any  
6 health insurance or other insurance policy information of the  
7 obligor within thirty (30) days of any change;  
8           6. Providing for collection and distribution of child support  
9 monies; and  
10          7. Assisting in the location of absent parents and their  
11 assets, in cooperation with federal agencies, other agencies of this  
12 state and of other states, territories, and foreign nations  
13 requesting assistance with the enforcement of support orders entered  
14 in the United States and elsewhere.  
15          E. The Division may petition the district or administrative  
16 court to modify any order for support regardless of whether there  
17 has been a change of circumstances.  
18          F. A reasonable fee and costs may be assessed for services to  
19 individuals not receiving Temporary Assistance for Needy Families  
20 pursuant to rules adopted by the Department.  
21          G. Child support payments made to the Division pursuant to this  
22 section shall be deposited in the Child Support Escrow Account for  
23 distribution as may be required by Section 235 of this title, or by

1 42 U.S.C., Section 651 et seq. Fees or reimbursements of costs  
2 collected by the Department shall be deposited in the Administration  
3 Fund of the Department and may be used and expended by the  
4 Department for the purposes of carrying out the provisions of this  
5 section.

6 H. Except as otherwise authorized by law, all files and records  
7 concerning the assistance and services provided under this section  
8 or concerning a putative father of a child born out of wedlock are  
9 confidential. Release of information from the files and records  
10 shall be consistent with federal law and shall be restricted to  
11 purposes directly connected with the administration of the child  
12 support collection, paternity determination, parent location, or  
13 ~~Temporary Assistance for Needy Families~~ or other public assistance  
14 programs. Information may be released to public officials under  
15 rules adopted by the Department, consistent with federal rules or  
16 regulations.

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

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

- 22 a. initiate enforcement proceedings to:  
23 (1) obtain a judgment for arrearages,

- 1 (2) effectuate an income assignment,  
2 (3) receive current support and judgment payments,  
3 and  
4 (4) review and modify support orders pursuant to  
5 child support guidelines in Section 118 of Title  
6 43 of the Oklahoma Statutes, ~~and~~  
7 b. initiate any other legal proceeding to implement the  
8 establishment and collection of support and other  
9 court-ordered requirements of support from an obligor  
10 including, but not limited to, medical expenses,  
11 insurance premiums, and child care costs, and  
12 c. appeal orders as necessary to implement the provisions  
13 of this section.

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

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

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

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

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

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

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

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

3 Section 240.3 A. 1. Final orders of the ~~OAH~~ Office of  
4 Administrative Hearings may be appealed to the district court  
5 pursuant to this section and Sections 318 through 323 of Title 75 of  
6 the Oklahoma Statutes by any party directly affected and showing  
7 aggrievement by the order, or by the Oklahoma Department of Human  
8 Services.

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

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

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

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

13           B. If an appeal pursuant to subsection A of this section is not  
14 made by the person to whom such an order is directed within thirty  
15 (30) days from the date the order is either provided in person or  
16 mailed by OAH to all parties, the order of the administrative court  
17 shall become final and binding on all parties. The order shall be  
18 filed in the office of the court clerk in the county of the  
19 residence of the custodian of the child or, if the custodian resides  
20 out of state, in the county of the residence of the obligor, or  
21 elsewhere as provided in this act. The administrative order shall  
22 be enforced by the district court in the same manner as an order of  
23 the district court.

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

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

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

1        1. The name, address, telephone number, social security number  
2 or other identifying information of any individual;  
3        2. Information regarding the employment, compensation, and  
4 benefits of any individual employed by such entity as an employee or  
5 contractor;  
6        ~~2.~~ 3. Vital statistics, including records of marriage, birth,  
7 and divorce;  
8        ~~3.~~ 4. State and local tax and revenue records, including  
9 information on residence address, employer, income, and assets;  
10        ~~4.~~ 5. Records containing real and titled personal property;  
11        ~~5.~~ 6. Records of recreational, occupational and professional  
12 licenses; ~~and records~~  
13        7. Records concerning the ownership and control of  
14 corporations, partnerships, and other business entities;  
15        ~~6.~~ 8. Employment security records;  
16        ~~7.~~ 9. Records of agencies administering public assistance  
17 programs;  
18        ~~8.~~ 10. Records of the Department of Corrections; ~~and~~  
19        11. Records of court actions or claims; and  
20        ~~9.~~ 12. The Division shall have access to the Oklahoma Law  
21 Enforcement Telecommunications Systems network as created in Section  
22 2-124 of Title 47 of the Oklahoma Statutes.

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

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

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

12 ~~2.~~ 3. ~~The names and addresses~~ name, address, social security  
13 number or other identifying information of such individuals and the  
14 names and addresses of the employers of such individuals, as  
15 appearing in customer records of public utilities, including 911  
16 emergency records, and cable television companies, pursuant to ~~an~~  
17 ~~administrative subpoena~~ a written request of the Department; and

18 ~~3.~~ 4. Information, including information on assets and  
19 liabilities on such individuals held by financial institutions; and

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

22 C. The entities described above should provide automated access  
23 in the case of records maintained in ~~automated data bases~~ electronic

1 format. To comply with a request of the Department, such entities  
2 may:

- 3 1. Provide to the Department the list of all individuals in its  
4 records for the Department to compare against its records for the  
5 purpose of identifying individuals for whom the Department is  
6 attempting to establish, modify or enforce a child support order; or  
7 2. Obtain a list of individuals against whom the Department is  
8 attempting to establish, modify or enforce a child support order and  
9 compare against the entity's records to identify matching  
10 individuals. The Department shall provide the list of child support  
11 parties in electronic media format.

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

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

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

20 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-15-05 - DO  
21 PASS, As Coauthored.