

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1241

By: Gilbert

AS INTRODUCED

An Act relating to children; amending Section 2, Chapter 198, O.S.L. 2004 (10 O.S. Supp. 2004, Section 7003-8.8), which relates to paternity and child support; modifying procedure for certain paternity actions; modifying procedure for certain child support proceedings; and providing an effective date.

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

SECTION 1. AMENDATORY Section 2, Chapter 198, O.S.L. 2004 (10 O.S. Supp. 2004, Section 7003-8.8), is amended to read as follows:

Section 7003-8.8 A. 1. When paternity of an alleged or adjudicated deprived child is at issue, the court, within six (6) months after the filing of a deprived petition, shall either establish paternity or ~~refer~~ defer the issue of paternity establishment to the ~~Department of Human Services Child Support Enforcement Division~~ appropriate administrative or district court for any child for whom paternity has not been legally established according to Section 70 of Title 10 of the Oklahoma Statutes.

2. When paternity is an issue, an alleged father and mother of the child named in a deprived petition shall be given notice in the petition and summons that paternity may be established in a deprived action. The Department of Human Services Child Support Enforcement Division shall proceed with paternity establishment for any case deferred to the administrative or other district court division under this subsection. If the court does not address the issue of paternity within six (6) months, the appropriate administrative or district court may proceed with the establishment without requesting

the court to defer the issue. The Department of Human Services shall file a Notice of Intent to Establish Paternity in Another Forum with the court clerk of the district court prior to filing the paternity action in the other forum.

3. 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 Oklahoma Department of Human Services Child Support Enforcement Division.

~~3.~~ 4. The order establishing paternity shall be filed as a separate document and shall not be confidential. The court clerk of the district court where the child support order has been filed, upon request, shall provide a copy of the order establishing paternity to a representative of the Oklahoma Department of Human Services Child Support Enforcement Division. A court order for the release of the order establishing paternity or other information contained in the court record pertaining to paternity and child support shall not be required. 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 may 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~~ defer the issue of establishment or enforcement of child support to the appropriate administrative or district court. The Oklahoma

Department of Human Services Child Support Enforcement Division
shall proceed with the establishment or enforcement of child support orders for any case deferred to the administrative or other district court division under this subsection. If the court does not address the child support issues within six (6) months, the appropriate administrative or district court may proceed with the establishment and enforcement of child support order without requesting the court to defer the issue. The Department of Human Services Child Support Enforcement Division shall file a Notice of Intent to Establish or Enforce the Child Support Order in Another Forum with the court clerk of the district court prior to filing the child support action in the other forum.

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 court clerk of the district court where the child support order has been filed, upon request, shall provide a copy of the support order to a representative of the Oklahoma Department of Human Services Child Support Enforcement Division. A court order for the release of the child support order or other information contained in the court record pertaining to child support shall not be required. 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 parent or 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 2. This act shall become effective November 1, 2005.

50-1-5375 SBH 01/06/05