

SB 1621

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THE STATE SENATE  
Thursday, February 14, 2008

Senate Bill No. 1621  
As Amended

SENATE BILL NO. 1621 - By: ANDERSON of the Senate and SULLIVAN of the House.

[ child support - collection - medical - rules - enforcement proceedings - repealer - effective date ]

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

SECTION 1. AMENDATORY 56 O.S. 2001, Section 237, as last amended by Section 2, Chapter 140, O.S.L. 2007 (56 O.S. Supp. 2007, 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

1 or private sources, for the purpose of carrying out the provisions  
2 of this section;

3 2. Adopt rules for child support services;

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

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

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

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

20 2. When an order has been entered which provides for payment of  
21 child support and the obligee pursuant to the order relinquishes  
22 physical custody of the child to another custodian, without  
23 obtaining a modification of the order to change custody or to

1 redirect the support to the new custodian, the relinquishment shall  
2 transfer the child support obligation pursuant to the order to the  
3 new custodian or the Department if services are being provided under  
4 the state child support plan as provided in this section. The  
5 transfer of the obligation shall terminate when the new custodian no  
6 longer has physical custody of the child, except for the amount of  
7 unpaid support still owing to the custodian or to the Department.

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

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



- 1           2. Establishing paternity;
- 2           3. Requiring medical support, child support, or other support;
- 3           4. Enforcing orders for paternity, medical support, child  
4 support, or other support;
- 5           5. Requiring that the obligor keep the Division informed of the  
6 name and address of the current employer of the obligor and of any  
7 health insurance or other insurance policy information of the  
8 obligor within thirty (30) days of any change;
- 9           6. Providing for collection and distribution of child support  
10 monies; and
- 11          7. Assisting in the location of absent parents and their  
12 assets, in cooperation with federal agencies, other agencies of this  
13 state and of other states, territories, and foreign nations  
14 requesting assistance with the enforcement of support orders entered  
15 in the United States and elsewhere.
- 16          E. The Division may petition the district or administrative  
17 court to modify any order for support regardless of whether there  
18 has been a change of circumstances.
- 19          F. A reasonable fee and costs may be assessed for services to  
20 individuals not receiving Temporary Assistance for Needy Families  
21 nor receiving any other services or programs funded by Title IV,  
22 Part A of the Federal Social Security Act, as amended, 42 U.S.C.,

1 Sections 602 through 619 pursuant to rules adopted by the  
2 Department.

3 G. Child support payments made to the Division pursuant to this  
4 section shall be deposited in the Child Support Escrow Account for  
5 distribution as may be required by Section 235 of this title, or by  
6 42 U.S.C., Section 651 et seq. Fees or reimbursements of costs  
7 collected by the Department shall be deposited in the Administration  
8 Fund of the Department and may be used and expended by the  
9 Department for the purposes of carrying out the provisions of this  
10 section.

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

21 SECTION 2. AMENDATORY 56 O.S. 2001, Section 237A, as  
22 amended by Section 3, Chapter 124, O.S.L. 2004 (56 O.S. Supp. 2007,  
23 Section 237A), is amended to read as follows:

1 Section 237A. A. ~~In all cases being enforced by the~~ The  
2 Department of Human Services ~~pursuant to the state child support~~  
3 ~~plan, unless the amount of past due support has been determined in a~~  
4 ~~court proceeding within the past twelve (12) months, the Department~~  
5 ~~shall~~ may periodically serve a notice upon the obligor ~~no less than~~  
6 ~~once every twelve (12) months~~ informing the obligor of the  
7 following:

8 1. The style and case number of the support order or orders  
9 being enforced by the Department;

10 2. The amount of the current support obligation and the total  
11 amount of alleged past due support pursuant to the support order or  
12 orders;

13 3. A specific payment plan on the past due amount;

14 4. That all payments for current support and payments for past  
15 due support owed to the Department or to the obligee shall be paid  
16 to the Centralized Support Registry at the address specified in the  
17 notice, and thereafter, any payments made other than to the Support  
18 Registry shall not be credited to the amount owed;

19 ~~4.~~ 5. The obligor's street address and mailing address as  
20 stated in the notice shall be the obligor's address or addresses of  
21 record for service of process on file in the central case registry  
22 provided for in Section 112A of Title 43 of the Oklahoma Statutes;  
23 and thereafter, the obligor must inform the central case registry at

1 the address specified in the notice in writing within thirty (30)  
2 days of any change;

3 ~~5.~~ 6. That if the information contained in the notice is  
4 incorrect or incomplete concerning the name and address of the  
5 obligor's current employer or other payors of income, dependent  
6 health insurance information, or other information requested by the  
7 Department, the obligor is required to inform the central case  
8 registry in writing of any changes or additions to the information  
9 within thirty (30) days of service of the notice and thereafter to  
10 inform the central case registry within thirty (30) days of any  
11 change;

12 ~~6.~~ 7. An income assignment is in effect and that the amounts  
13 specified in the notice shall be withheld from the obligor's income  
14 for current support and past due support;

15 ~~7.~~ ~~The income assignment will be served upon all current and~~  
16 ~~subsequent payors of income without further notice to the obligor;~~

17 ~~8.~~ ~~The income assignment will remain in effect regardless of~~  
18 ~~whether any past due amounts are owed, for as long as the order upon~~  
19 ~~which it is based, or for as long as past due support is owed,~~  
20 ~~whichever is later, and payment of any amount will not prevent the~~  
21 ~~income assignment from taking effect;~~

22 ~~9.~~ 8. That if there is no order for payment of the past due  
23 amount, when any amount of support becomes thirty (30) days past

1 due, the Department is authorized to direct the obligor's payor of  
2 income to withhold an amount equal to twenty-five percent (25%) of  
3 the current support obligation, and that this amount shall continue  
4 to be withheld until the past due support is paid in full, or until  
5 further order;

6 ~~10.~~ 9. That if the obligor has failed to comply with an order  
7 to provide health insurance, the obligor's employer will be required  
8 to enroll the obligor's minor children who are the subject of the  
9 referenced order in any dependent health insurance plan offered by  
10 the employer to the obligor, and to deduct the amount of the premium  
11 from the obligor's income;

12 ~~11.~~ 10. ~~That A list of all actions and remedies~~ the Department  
13 ~~may take~~ will use all available remedies to enforce the order and to  
14 collect past due support. ~~The list may include a specific payment~~  
15 ~~plan;~~

16 ~~12.~~ 11. ~~That the obligor will be given this notice no less than~~  
17 ~~once every twelve (12) months, and~~ after initial service of the  
18 notice as provided in subsection C of this section, subsequent  
19 notices will be mailed by regular mail to the last address for the  
20 obligor on file in the central case registry;

21 ~~13.~~ 12. That the obligor may request an administrative review  
22 on a form attached to the notice within twenty (20) days of the date

1 the notice is served upon the obligor which will be granted only on  
2 the following grounds:

- 3 a. a mistake of identity, or
- 4 b. the existence or the amount of current support or past  
5 due support is incorrect;

6 ~~14.~~ 13. That the obligor has been given notice and opportunity  
7 to contest the past due amount stated in the notice and ~~that~~ the  
8 obligor will not be entitled to another opportunity to contest that  
9 amount; and

10 ~~15.~~ 14. That the notice will have the same effect as a court  
11 order and will be enforceable as a court order.

12 B. ~~The notice shall be filed, at the option of the Department,~~  
13 ~~with the clerk of the district court in the county of residence of~~  
14 ~~the custodian of the child, in the county of residence of the~~  
15 ~~obligor, or in the county of the underlying support order or in any~~  
16 ~~other county in which the obligor has real or personal property.~~

17 C. The initial notice provided for in this section shall be  
18 served by the Department upon the obligor as provided in Section  
19 2005 of Title 12 of the Oklahoma Statutes, or if there is an address  
20 of record on file with the central case registry pursuant to Section  
21 112A of Title 43 of the Oklahoma Statutes, the notice may be served  
22 by regular mail at the address of record. The Department shall  
23 serve the obligor subsequent notices by regular mail with a

1 certificate of mailing to the last address of record for service of  
2 process for the obligor on file with the central case registry. The  
3 Department shall send the initial and subsequent notice to the  
4 custodian of the child by regular mail with a certificate of  
5 mailing.

6 ~~D.~~ C. 1. An obligor may request an administrative review  
7 pursuant to this section by delivering a request to the Department  
8 in writing or on the form provided within twenty (20) days of the  
9 date the notice is served upon the obligor. If the notice is a  
10 subsequent notice as provided in subsection C of this section, the  
11 date of service shall be the date the notice is mailed to the  
12 obligor, and the notice shall state the date it is being mailed.

13 ~~E.—1.~~ 2. Upon receipt of a timely request for an  
14 administrative review, the Department shall schedule a review to be  
15 held within thirty (30) days of receipt of the request. The obligor  
16 shall be served with notice of the administrative review as provided  
17 in subsection B of Section 2005 of Title 12 of the Oklahoma  
18 Statutes. The review shall be conducted by an employee of the  
19 Department who will attempt to resolve all disputed issues without  
20 the necessity of a hearing. If all issues are resolved at the  
21 review, the obligor shall sign an agreed administrative or district  
22 court order which shall be filed, at the option of the Department,  
23 with the clerk of the district court in the county of residence of

1 the custodian of the child, in the county of residence of the  
2 obligor, in the county of the underlying support order, or in any  
3 other county in which the obligor has real or personal property.

4 ~~2-~~ 3. If all disputed issues are not resolved at the  
5 administrative review, the Department shall set the matter for a  
6 hearing. The obligor shall be served with notice of the hearing as  
7 provided in subsection B of Section 2005 of Title 12 of the Oklahoma  
8 Statutes. The district or administrative court shall hear the  
9 matter and shall enter an order determining the contested issues and  
10 affirming the other provisions of the notice. An administrative  
11 order shall be filed, at the option of the Department, with the  
12 clerk of the district court in the county of residence of the  
13 custodian of the child, in the county of residence of the obligor in  
14 the county of the underlying support order, or in any other county  
15 in which the obligor has real or personal property.

16 ~~3-~~ 4. If the obligor fails to request a timely administrative  
17 review, or fails to appear for a review or a hearing, the obligor  
18 may no longer contest the contents of the notice, and the obligor  
19 shall be obligated to make payments pursuant to the payment plan as  
20 stated in the notice to collect the past due support and those  
21 amounts shall be subject to income withholding. The notice shall  
22 have the same legal effect as a court order and be enforceable as a  
23 court order. The notice with proof of service upon the obligor and

1 the custodian of the child shall be filed, at the option of the  
2 Department, with the clerk of the district court in the county of  
3 residence of the custodian of the child, in the county of residence  
4 of the obligor, in the county of the underlying support order, or in  
5 any other county in which the obligor has real or personal property.

6 ~~4-~~ D. The district or administrative court may order an obligor  
7 to pay all costs involved in proceedings under this ~~subsection~~  
8 section.

9 ~~5-~~ E. A final order entered pursuant to this section shall be  
10 served upon the obligor in accordance with subsection B of Section  
11 2005 of Title 12 of the Oklahoma Statutes.

12 ~~6-~~ F. A final administrative order entered pursuant to this  
13 section may be appealed pursuant to Section 240.3 of this title.

14 SECTION 3. AMENDATORY 56 O.S. 2001, Section 238.4, is  
15 amended to read as follows:

16 Section 238.4 A. A hearing shall be held at the time and place  
17 given on the notice of support debt served upon the obligor or the  
18 attorney for the obligor, with a duly qualified administrative law  
19 judge appointed for that purpose by the Department. ~~The hearing~~  
20 ~~shall be held in the county of residence of the custodial parent or~~  
21 ~~guardian of the child or if the custodian resides out of state, the~~  
22 ~~hearing shall be held in the county of residence of the obligor.~~  
23 ~~The hearing shall be conducted according to rules promulgated by the~~

1 Department shall promulgate rules determining the location and  
2 procedure for hearings. The rules shall provide to both parties the  
3 right to confront and cross-examine witnesses, to present witnesses,  
4 and to be represented by an attorney or other person. After the  
5 evidence has been presented at a hearing, the administrative law  
6 judge shall enter an order which shall be in writing and contain  
7 findings of fact and conclusions of law as to each contested issue.  
8 Each order shall include provisions requiring the obligor to inform  
9 the Division of the obligor's current address, the name and address  
10 of the obligor's current employer, and the obligor's access to  
11 health insurance and other insurance policy information. The order  
12 shall be submitted to the district office and to the obligor or the  
13 attorney for the obligor by hand delivery by the administrative law  
14 judge or by certificate of mailing, within twenty (20) days after  
15 the conclusion of the hearing.

16 B. If, during the hearing, the administrative law judge finds  
17 that the issues presented will require further consideration or  
18 evidence either administratively or through the district court  
19 before adjudication, the administrative law judge may enter a  
20 temporary order for child support, pending resolution of those  
21 issues during a subsequent administrative or court hearing. The  
22 temporary order shall be enforced until superseded by a final

1 administrative order or district court order and may be filed in the  
2 office of the court clerk.

3 C. If an appeal is not perfected by the obligor or district  
4 office, the order of the administrative law judge shall be final,  
5 subject to collection action, and shall be filed in the office of  
6 the court clerk in the county of residence of the custodian of the  
7 child or, if the custodian resides out of state, in the county of  
8 residence of the obligor, or elsewhere as provided in this act. The  
9 administrative order shall be enforced by the district court in the  
10 same manner as an order of the district court.

11 D. If the obligor fails to appear for the hearing after proper  
12 service, an administrative order will be entered. The order shall  
13 include findings of facts and conclusions of law and shall be  
14 subject to collection action, and shall be filed in the office of  
15 the court clerk in the county of residence of the custodian of the  
16 child or, if the custodian resides out of state, in the county of  
17 the residence of the obligor, or elsewhere as provided in this act.  
18 The administrative order shall be enforced by the district court in  
19 the same manner as an order of the district court.

20 E. Any order for periodic support payments made pursuant to the  
21 provisions of this title shall be payable to the Division for as  
22 long as the Division is providing support enforcement. Thereafter,  
23 if TANF is not being paid, the custodian or guardian notifies the

1 Division in writing that TANF services are no longer requested  
2 and/or the obligor has not applied for services, current support  
3 payments shall be redirected to the person or entity entitled to the  
4 support.

5 SECTION 4. AMENDATORY 56 O.S. 2001, Section 238.6, is  
6 amended to read as follows:

7 Section 238.6 The Department of Human Services may utilize any  
8 of the administrative procedures set forth in this title to  
9 establish, modify, or enforce a support order in all cases in which  
10 child support services are being provided pursuant to the state  
11 child support plan or state law. The Department shall promulgate  
12 rules determining the location and procedure for administrative  
13 hearings.

14 SECTION 5. AMENDATORY 56 O.S. 2001, Section 238.6B, as  
15 last amended by Section 4, Chapter 140, O.S.L. 2007 (56 O.S. Supp.  
16 2007, Section 238.6B), is amended to read as follows:

17 Section 238.6B A. The Department of Human Services may serve a  
18 notice of paternity and support obligations on an individual alleged  
19 to be the parent of a child for whom paternity has not been  
20 judicially or administratively established. Venue for such action  
21 shall be, ~~at the option of the Department, in the county where the~~  
22 ~~mother, father or child resides~~ pursuant to Section 7700-605 of  
23 Title 10 of the Oklahoma Statutes. The Department shall promulgate

1 rules determining the location and procedure for administrative  
2 hearings. Service of the notice shall be in the same manner as a  
3 summons in a civil action pursuant to Section 2004 of Title 12 of  
4 the Oklahoma Statutes.

5 B. The notice shall be verified and have attached to it a copy  
6 of any acknowledgment of paternity and shall state:

7 1. The name and date of birth of any minor children, along with  
8 the name of the natural mother and custodian, if different than the  
9 mother or putative father;

10 2. The amount of child support and other support, including the  
11 amounts ordered pursuant to paragraph 3 of this subsection, to be  
12 ordered in accordance with the Child Support Guidelines provided in  
13 Section 118 of Title 43 of the Oklahoma Statutes;

14 3. The amount of reimbursement for the costs of the birth and  
15 the reasonable expenses of providing for said child which has  
16 accrued or is accruing, provided that the liability for the above  
17 costs shall be imposed for **five (5) years** preceding the issuance of  
18 the notice;

19 4. That health insurance for the child whenever such insurance  
20 is available through employment or other group health insurance plan  
21 and that payment of proportionate share of any unreimbursed health  
22 costs shall be required;

1           5. The amount of reimbursement requested for the costs of the  
2 genetic test to determine paternity, if any;

3           6. That an immediate income assignment will be effectuated for  
4 payment of current support and any judgments entered;

5           7. That in the absence of an acknowledgment of paternity, a  
6 notice to appear and show cause shall be issued to the putative  
7 father which directs the putative father to appear and show cause  
8 why the administrative judge should not determine him to be the  
9 father of any such children, liable for the support requested in the  
10 notice, for the costs accrued and accruing or the amount to be paid  
11 thereon;

12           8. That if paternity is disputed and no acknowledgment of  
13 paternity has been executed under the Uniform Parentage Act, the  
14 Administrative Law Judge shall enter an order directing genetic  
15 tests to determine paternity and advise the putative father that if  
16 he fails to appear he will be in default and an order will be  
17 entered against him. If the putative father is not excluded, and  
18 the statistical probability of paternity according to scientifically  
19 reliable genetic tests including, but not limited to, blood tests is  
20 at least ninety-nine percent (99%) and he is contesting the issue of  
21 paternity, he may request the Department to remove the action to  
22 district court to determine paternity. If the statistical  
23 probability of paternity is ninety-nine percent (99%), and the

1 father does not request the Department to remove to district court  
2 within fourteen (14) days of the Department mailing the genetic test  
3 or other test results, determination of paternity shall become final  
4 for all intents and purposes and may be overturned only by appeal to  
5 district court. Any such request shall be in writing and served on  
6 the Department personally or by registered or certified mail;

7 9. That if the putative father fails to appear at the genetic  
8 testing, show cause, or any subsequent hearing or if no notice to  
9 appear for genetic testing was served and no hearing is requested on  
10 or before twenty (20) days from the date of service, the finding of  
11 paternity shall become final and a support order entered. The order  
12 shall be docketed with the district court in the county of residence  
13 of the custodian or the child. If neither the custodian nor the  
14 child reside in the state, the order shall be docketed in the county  
15 of residence of the noncustodial parent. The support order shall be  
16 enforced in the same manner as an order of the district court;

17 10. That at any time after paternity is determined, the  
18 Department may set a hearing to determine the child support  
19 obligation, if child support has not already been established.  
20 Failure to appear at the hearing will result in a support order  
21 being entered against the noncustodial parent. The hearing shall be  
22 held at the location where the Office of Administrative Hearings:

1 Child Support conducts hearings for the assigned district child  
2 support office; and

3 11. That if the mother and father have voluntarily signed an  
4 acknowledgment of paternity pursuant to the Uniform Parentage Act,  
5 the duly executed acknowledgment of paternity is considered a legal  
6 finding of paternity, subject to the right of any signatory to  
7 rescind the acknowledgment within the earlier of:

8 a. sixty (60) days, or

9 b. the date of an administrative or judicial proceeding  
10 relating to the child, including but not limited to a  
11 proceeding to establish a support order, in which the  
12 signatory is a party.

13 After the sixty-day period referred to in subparagraph a of this  
14 paragraph, a duly executed acknowledgment of paternity may be  
15 challenged in court only in accordance with the Uniform Parentage  
16 Act. The legal responsibilities, including but not limited to child  
17 support obligations, of any signatory arising from the  
18 acknowledgment may not be suspended during the challenge, except for  
19 good cause shown.

20 This paragraph shall not be interpreted to authorize the  
21 rescission of an acknowledgement of paternity if such rescission  
22 would be prohibited under applicable federal law.

1 C. The Department may accept voluntary acknowledgments of  
2 support liability and support amounts.

3 D. If the name of the father has not been entered on the  
4 child's birth certificate, the Department of Human Services shall  
5 notify the State Department of Health, Division of Vital Records who  
6 shall enter the name of the father, and if known, the date of birth  
7 and the place of birth of the father, on the birth certificate.

8 E. If child support services are being provided pursuant to  
9 Section 237 of this title, prior to the issuance of the notice of  
10 paternity and support obligation, a father who denies paternity and  
11 who has not signed an acknowledgment of paternity under the Uniform  
12 Parentage Act may request that a genetic test be administered. The  
13 request for testing shall be in writing and served on the Department  
14 personally or by registered or certified mail.

15 F. If a request for testing is made pursuant to subsection B or  
16 E of this section, the Department shall arrange for the test and,  
17 pursuant to rules promulgated by the Department, may advance the  
18 cost of the testing. The Department shall mail a copy of the test  
19 results by a certificate of mailing to the last-known address of the  
20 father. If a request for genetic tests was made pursuant to  
21 subsection E of this section, the Department shall mail the notice  
22 of paternity and support obligations to the father by certificate of  
23 mailing to the last-known address of the father.

1 G. If genetic testing pursuant to subsection B or E of this  
2 section excludes a person from being a natural parent, the  
3 Department shall dismiss any pending court or administrative  
4 collection proceedings against the person. The State Department of  
5 Health, Division of Vital Records shall remove the name of the  
6 person listed as the father from the birth certificate, upon notice  
7 from the Department that the person has been excluded by genetic  
8 testing. Once paternity is established, the State Department of  
9 Health, Division of Vital Records shall correct its records and  
10 amend the birth certificate to reflect the name of the father.

11 H. If both the custodian mother and the father agree to change  
12 the surname of the child to that of the father, the administrative  
13 law judge may order the name changed. Upon receipt of an order  
14 changing the child's surname, the State Department of Health,  
15 Division of Vital Records shall correct its records and amend the  
16 birth certificate to reflect the name change.

17 I. All docketed administrative orders shall be modified and  
18 enforced in the same manner as an order of the district court.

19 SECTION 6. REPEALER 56 O.S. 2001, Section 240.2, is  
20 hereby repealed.

21 SECTION 7. This act shall become effective November 1, 2008.

22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-12-08 - DO  
23 PASS, As Amended and Coauthored.