

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

SENATE BILL NO. 1126

By: Jolley of the Senate

5 and

6 Nelson of the House

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9 COMMITTEE SUBSTITUTE

10 (marriage and family - payment plans - review

11 hearing - extend or revoke probation -

12 effective date)

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16 SECTION 1. AMENDATORY 43 O.S. 2001, Section 139.1, as

17 amended by Section 1, Chapter 124, O.S.L. 2004 (43 O.S. Supp. 2008,

18 Section 139.1), is amended to read as follows:

19 Section 139.1 A. As used in this section and Section 6-201.1

20 of Title 47 of the Oklahoma Statutes:

21 1. "Licensing board" means any bureau, department, division,
22 board, agency or commission of this state or of a municipality in
23 this state that issues a license;

1 2. "Noncompliance with an order for support" means that the
2 obligor has failed to make child support payments required by a
3 child support order in an amount equal to the child support payable
4 for at least ninety (90) days or has failed to make full payments
5 pursuant to a court-ordered payment plan for at least ninety (90)
6 days or has failed to obtain or maintain health insurance coverage
7 as required by an order for support for at least ninety (90) days or
8 has failed, after receiving appropriate notice to comply with
9 subpoenas or orders relating to paternity or child support
10 proceedings or has failed to comply with an order to submit to
11 genetic testing to determine paternity;

12 3. "Order for support" means any judgment or order for the
13 support of dependent children or an order to submit to genetic
14 testing to determine paternity issued by any court of this state or
15 other state or any judgment or order issued in accordance with an
16 administrative procedure established by state law that affords
17 substantial due process and is subject to judicial review;

18 4. "Department" means the Department of Human Services;

19 5. "License" means a license, certificate, registration,
20 permit, approval or other similar document issued by a licensing
21 board granting to an individual a right or privilege to engage in a
22 profession, occupation, or business, or any recreational license or
23 permit including, but not limited to, a hunting and fishing license
24 or other authorization issued pursuant to the Oklahoma Wildlife

1 Conservation Code, certificates of title for vessels and motors and
2 other licenses or registrations issued pursuant to the Oklahoma
3 Vessel and Motor Registration Act, or a driver license or other
4 permit issued pursuant to Title 47 of the Oklahoma Statutes;

5 6. "Obligor" means the person who is required to make payments
6 or comply with other provisions of an order for support;

7 7. "Person entitled" means:

8 a. a person to whom a support debt or support obligation
9 is owed,

10 b. the Department of Human Services or a public agency of
11 another state that has the right to receive current or
12 accrued support payments or that is providing support
13 enforcement services, or

14 c. a person designated in a support order or as otherwise
15 specified by the court; and

16 8. "Payment plan" includes, but is not limited to, a plan
17 approved by the court that provides sufficient security to ensure
18 compliance with a support order and/or that incorporates voluntary
19 or involuntary income assignment or a similar plan for periodic
20 payment on an arrearage and, if applicable, current and future
21 support.

22 B. 1. Except as otherwise provided by this subsection, the
23 district courts of this state are hereby authorized to order the
24 revocation, suspension, nonissuance or nonrenewal of a license or

1 the placement of the obligor on probation who is in noncompliance
2 with an order for support. Under the conditions of probation the
3 obligor shall enter into a payment plan whereby the obligor pays
4 current support and the equivalent for a total of three (3) months.
5 During this three-month period the obligor shall be on probation and
6 maintain the license which is the subject of the revocation action.

7 A review hearing shall be set by the court for the obligor to
8 appear three (3) months from the beginning of the probation and
9 payment plan. If at this hearing payments have been made as ordered
10 for the payment plan and probation, then the probation for
11 revocation of the license may be dismissed by the court.

12 In the alternative after reviewing the payment record from the
13 three-month probation, the court may continue a probationary plan
14 for up to three (3) years to monitor the payments of the obligor.
15 The obligor shall maintain the license while continuing the payments
16 under the probationary plan.

17 If obligor has failed to meet the payments as ordered in the
18 plan during the three-month probation, the court shall direct the
19 licensing board to revoke the license and privileges thereto. The
20 obligor may at this three-month hearing produce evidence of
21 extraordinary circumstances that contributed to the obligor not
22 fulfilling the court-ordered plan during this three-month period.

23 After hearing the sworn testimony and considering the evidence,
24 the court may extend the probation and payment plan or revoke the

1 probation and suspend the license at issue until the obligor is no
2 longer in noncompliance with the order for payment of child support.

3 2. If the obligor is a licensed attorney, the court may report
4 the matter to the State Bar Association to revoke or suspend the
5 professional license of the obligor or other appropriate action in
6 accordance with the rules of professional conduct and disciplinary
7 proceedings.

8 3. Pursuant to Section 6-201.1 of Title 47 of the Oklahoma
9 Statutes, the district or administrative courts of this state are
10 hereby authorized to order the revocation or suspension of a driver
11 license of an obligor who is in noncompliance with an order of
12 support.

13 4. The remedy under this section is in addition to any other
14 enforcement remedy available to the court.

15 C. 1. At any hearing involving the support of a child, if the
16 district court finds evidence presented at the hearing that an
17 obligor is in noncompliance with an order for support and the
18 obligor is licensed by any licensing board, the court, in addition
19 to any other enforcement action available, may suspend or revoke the
20 license of the obligor who is in noncompliance with the order of
21 support or place the obligor on probation.

22 2. If the obligor enters into a court-ordered payment plan to
23 repay past due support and provides proof to the court that the
24 obligor is complying with all other provisions of the order for

1 support, the court may place the obligor on probation and allow the
2 obligor to practice or continue to practice the obligor's
3 profession, occupation or business, or to operate a motor vehicle.
4 Probation shall be conditioned upon full compliance with the order.
5 If the court grants probation, the probationary period shall not
6 exceed three (3) years, and the terms of probation shall provide for
7 automatic suspension or revocation of the license if the obligor
8 does not fully comply with the order. If the court orders
9 probation, the appropriate licensing board shall not be notified and
10 no action is required of that board.

11 D. When all support due is paid in full and the obligor has
12 complied with all other provisions of the order for support, the
13 obligor may file a motion with the court for reinstatement of the
14 obligor's licenses and the motion shall be set for hearing. If the
15 court finds the obligor has paid all support due in full and has
16 complied with all other provisions of the order for support, the
17 court shall reinstate the obligor's licenses.

18 E. 1. An obligor may file a motion with the court for
19 reinstatement of the obligor's licenses prior to payment in full of
20 all support due and the motion shall be set for hearing.

21 2. The court may reinstate the obligor's licenses if the
22 obligor has:

- 23 a. paid the current child support and the monthly
24 arrearage payments each month for the current month

1 and two (2) months immediately preceding, or paid an
2 amount equivalent to three (3) months of child support
3 and arrearage payments which satisfies the current
4 child support and monthly arrearage payments for the
5 current month and two (2) months immediately
6 preceding,

7 b. disclosed all information regarding health insurance
8 availability and obtained and maintained health
9 insurance coverage required by an order for support,

10 c. complied with all subpoenas and orders relating to
11 paternity or child support proceedings,

12 d. complied with all orders to submit to genetic testing
13 to determine paternity, and

14 e. disclosed all employment and address information.

15 3. If the court terminates the order of suspension, revocation,
16 nonissuance or nonrenewal, it shall place the obligor on probation,
17 conditioned upon the obligor's complying with any payment plan and
18 the provisions of the order for support.

19 4. If the obligor fails to comply with the terms of probation,
20 the court may refuse to reinstate the obligor's licenses and driving
21 privileges unless the obligor makes additional payments in an amount
22 determined by the court to be sufficient to ensure future
23 compliance, and the obligor complies with the other terms set by the
24 court.

1 F. The obligor shall serve on the custodian or the state a copy
2 of the motion for reinstatement of the obligor's licenses and notice
3 of hearing pursuant to Section 2005 of Title 12 of the Oklahoma
4 Statutes, or if there is an address of record, by regular mail to
5 the address of record on file with the central case registry
6 pursuant to Section 112A of this title. When child support services
7 are being provided pursuant to Section 237 of Title 56 of the
8 Oklahoma Statutes, the obligor shall serve a copy of the motion for
9 reinstatement of the obligor's licenses on the Department of Human
10 Services.

11 G. If the court orders termination of the order of suspension
12 or revocation, the obligor shall send a copy of the order
13 reinstating the obligor's licenses to the licensing board and the
14 custodian and to the Department of Human Services when child support
15 services are being provided pursuant to Section 237 of Title 56 of
16 the Oklahoma Statutes.

17 H. Entry of this order does not limit the ability of the court
18 to issue a new order requiring the licensing board to revoke or
19 suspend the license of the same obligor in the event of another
20 delinquency or failure to comply.

21 I. Upon receipt of a court order to suspend or revoke the
22 license of an obligor, the licensing board shall comply with the
23 order by:
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1 1. Determining if the licensing board has issued a license to
2 the individual whose name appears on the order for support;

3 2. Notifying the obligor of the suspension or revocation;

4 3. Demanding surrender of the license, if required;

5 4. Entering the suspension or revocation of the license on the
6 appropriate records; and

7 5. Reporting the suspension or revocation of the license as
8 appropriate.

9 J. Upon receipt of a court order to not issue or not renew the
10 license of an obligor, the licensing board shall implement by:

11 1. Determining if the licensing board has received an
12 application for issuance or renewal of a license from the individual
13 whose name appears on the order of support;

14 2. Notifying the obligor of the nonissuance or nonrenewal; and

15 3. Entering the nonissuance or nonrenewal of the license as
16 appropriate.

17 K. An order, issued by the court, directing the licensing board
18 to suspend, revoke, not issue or not renew the license of the
19 obligor shall be processed and implemented by the licensing board
20 without any additional review or hearing and shall continue until
21 the court or appellate court advises the licensing board by order
22 that the suspension, revocation, nonissuance or nonrenewal is
23 terminated.

1 L. The licensing board has no jurisdiction to modify, remand,
2 reverse, vacate, or stay the order of the court for the suspension,
3 revocation, nonissuance or nonrenewal of a license.

4 M. In the event of suspension, revocation, nonissuance or
5 nonrenewal of a license, any funds paid by the obligor to the
6 licensing board for costs related to issuance, renewal, or
7 maintenance of a license shall not be refunded to the obligor.

8 N. A licensing board may charge the obligor a fee to cover the
9 administrative costs incurred by the licensing board to administer
10 the provisions of this section. Fees collected pursuant to this
11 section by a licensing board which has an agency revolving fund
12 shall be deposited in the agency revolving fund for the use by the
13 licensing board to pay the costs of administering this section.
14 Otherwise, the administrative costs shall be deposited in the
15 General Revenue Fund of the state.

16 O. Each licensing board shall promulgate rules necessary for
17 the implementation and administration of this section.

18 P. The licensing board is exempt from liability to the obligor
19 for activities conducted in compliance with Section 139 et seq. of
20 this title.

21 Q. The provisions of this section may be used to revoke or
22 suspend the licenses and driving privileges of the custodian of a
23 child who fails to comply with an order to submit to genetic testing
24 to determine paternity.

1 R. A final order entered pursuant to this section may be
2 appealed to the Supreme Court of Oklahoma pursuant to Section 990A
3 of Title 12 of the Oklahoma Statutes.

4 SECTION 2. This act shall become effective November 1, 2009.

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