

THE HOUSE OF REPRESENTATIVES
Wednesday, April 8, 2009

Committee Substitute for
ENGROSSED
Senate Bill No. 1126

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1126 - By:
JOLLEY of the Senate and NELSON of the House.

(marriage and family - payment plans - review hearing - extend or revoke
probation -
effective date)

1 SECTION 1. AMENDATORY 43 O.S. 2001, Section 139.1, as amended by
2 Section 1, Chapter 124, O.S.L. 2004 (43 O.S. Supp. 2008, Section 139.1), is amended to
3 read as follows:

4 Section 139.1 A. As used in this section and Section 6-201.1 of Title 47 of the
5 Oklahoma Statutes:

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

8 2. "Noncompliance with an order for support" means that the obligor has failed to
9 make child support payments required by a child support order in an amount equal to
10 the child support payable for at least ninety (90) days or has failed to make full payments
11 pursuant to a court-ordered payment plan for at least ninety (90) days or has failed to
12 obtain or maintain health insurance coverage as required by an order for support for at

1 least ninety (90) days or has failed, after receiving appropriate notice to comply with
2 subpoenas or orders relating to paternity or child support proceedings or has failed to
3 comply with an order to submit to genetic testing to determine paternity;

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

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

10 5. "License" means a license, certificate, registration, permit, approval or other
11 similar document issued by a licensing board granting to an individual a right or
12 privilege to engage in a profession, occupation, or business, or any recreational license or
13 permit including, but not limited to, a hunting and fishing license or other authorization
14 issued pursuant to the Oklahoma Wildlife Conservation Code, certificates of title for
15 vessels and motors and other licenses or registrations issued pursuant to the Oklahoma
16 Vessel and Motor Registration Act, or a driver license or other permit issued pursuant to
17 Title 47 of the Oklahoma Statutes;

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

20 7. "Person entitled" means:

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

- 1 b. the Department of Human Services or a public agency of another state
2 that has the right to receive current or accrued support payments or
3 that is providing support enforcement services, or
4 c. a person designated in a support order or as otherwise specified by the
5 court; and

6 8. “Payment plan” includes, but is not limited to, a plan approved by the court that
7 provides sufficient security to ensure compliance with a support order and/or that
8 incorporates voluntary or involuntary income assignment or a similar plan for periodic
9 payment on an arrearage and, if applicable, current and future support.

10 B. 1. Except as otherwise provided by this subsection, the district courts of this
11 state are hereby authorized to order the revocation, suspension, nonissuance or
12 nonrenewal of a license or the placement of the obligor on probation who is in
13 noncompliance with an order for support. Under the conditions of probation the obligor
14 shall enter into a payment plan whereby the obligor pays current support and the
15 equivalent for a total of three (3) months. During this three-month period the obligor
16 shall be on probation and maintain the license which is the subject of the revocation
17 action.

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

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

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

10 After hearing the sworn testimony and considering the evidence, the court may
11 extend the probation and payment plan or revoke the probation and suspend the license
12 at issue until the obligor is no longer in noncompliance with the order for payment of
13 child support.

14 2. If the obligor is a licensed attorney, the court may report the matter to the State
15 Bar Association to revoke or suspend the professional license of the obligor or other
16 appropriate action in accordance with the rules of professional conduct and disciplinary
17 proceedings.

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

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

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

8 2. If the obligor enters into a court-ordered payment plan to repay past due support
9 and provides proof to the court that the obligor is complying with all other provisions of
10 the order for support, the court may place the obligor on probation and allow the obligor
11 to practice or continue to practice the obligor's profession, occupation or business, or to
12 operate a motor vehicle. Probation shall be conditioned upon full compliance with the
13 order. If the court grants probation, the probationary period shall not exceed three (3)
14 years, and the terms of probation shall provide for automatic suspension or revocation of
15 the license if the obligor does not fully comply with the order. If the court orders
16 probation, the appropriate licensing board shall not be notified and no action is required
17 of that board.

18 D. When all support due is paid in full and the obligor has complied with all other
19 provisions of the order for support, the obligor may file a motion with the court for
20 reinstatement of the obligor's licenses and the motion shall be set for hearing. If the
21 court finds the obligor has paid all support due in full and has complied with all other
22 provisions of the order for support, the court shall reinstate the obligor's licenses.

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

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

- 5 a. paid the current child support and the monthly arrearage payments
6 each month for the current month and two (2) months immediately
7 preceding, or paid an amount equivalent to three (3) months of child
8 support and arrearage payments which satisfies the current child
9 support and monthly arrearage payments for the current month and
10 two (2) months immediately preceding,
- 11 b. disclosed all information regarding health insurance availability and
12 obtained and maintained health insurance coverage required by an
13 order for support,
- 14 c. complied with all subpoenas and orders relating to paternity or child
15 support proceedings,
- 16 d. complied with all orders to submit to genetic testing to determine
17 paternity, and
- 18 e. disclosed all employment and address information.

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

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

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

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

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

19 I. Upon receipt of a court order to suspend or revoke the license of an obligor, the
20 licensing board shall comply with the order by:

21 1. Determining if the licensing board has issued a license to the individual whose
22 name appears on the order for support;

- 1 2. Notifying the obligor of the suspension or revocation;
- 2 3. Demanding surrender of the license, if required;
- 3 4. Entering the suspension or revocation of the license on the appropriate records;
- 4 and
- 5 5. Reporting the suspension or revocation of the license as appropriate.

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

- 8 1. Determining if the licensing board has received an application for issuance or
9 renewal of a license from the individual whose name appears on the order of support;
- 10 2. Notifying the obligor of the nonissuance or nonrenewal; and
- 11 3. Entering the nonissuance or nonrenewal of the license as appropriate.

12 K. An order, issued by the court, directing the licensing board to suspend, revoke,
13 not issue or not renew the license of the obligor shall be processed and implemented by
14 the licensing board without any additional review or hearing and shall continue until the
15 court or appellate court advises the licensing board by order that the suspension,
16 revocation, nonissuance or nonrenewal is terminated.

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

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

1 N. A licensing board may charge the obligor a fee to cover the administrative costs
2 incurred by the licensing board to administer the provisions of this section. Fees
3 collected pursuant to this section by a licensing board which has an agency revolving
4 fund shall be deposited in the agency revolving fund for the use by the licensing board to
5 pay the costs of administering this section. Otherwise, the administrative costs shall be
6 deposited in the General Revenue Fund of the state.

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

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

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

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

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

17 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04-07-09 - DO PASS,
18 As Amended.