

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 2275

By: Gumm

4
5 AS INTRODUCED

6 An Act relating to civil procedure; amending 12 O.S.
7 2001, Section 1171.3, as amended by Section 1,
8 Chapter 393, O.S.L. 2004 (12 O.S. Supp. 2009, Section
9 1171.3), which relates to income assignment
10 proceedings; requiring certain order to be attached
11 to certain notice; requiring certain notification
12 prior to certain payment; requiring development of
13 certain matrix and manual; and providing an effective
14 date.

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

16 SECTION 1. AMENDATORY 12 O.S. 2001, Section 1171.3, as
17 amended by Section 1, Chapter 393, O.S.L. 2004 (12 O.S. Supp. 2009,
18 Section 1171.3), is amended to read as follows:

19 Section 1171.3. A. In all child support cases arising out of
20 an action for divorce, paternity or other proceedings, the court
21 shall order the payment of child support as provided under Section
22 115 of Title 43 of the Oklahoma Statutes.

23 B. 1. A notice of income assignment shall be sent by the
24 applicant to the payor on a standardized form prescribed by the
Secretary of the United States Department of Health and Human
Services and available through the Administrative Office of the

1 Courts together with the court order for such payments. The notice
2 shall be sent by certified mail, return receipt requested or served
3 according to law. The payor shall be required to comply with the
4 provisions of this subsection and the provisions stated in the
5 notice.

6 2. The income assignment shall take effect on the next payment
7 of earnings to the obligor after the payor receives notice. The
8 amount withheld shall be sent to the Centralized Support Registry as
9 provided for in Section 413 of Title 43 of the Oklahoma Statutes
10 within seven (7) days after the date upon which the obligor is paid.
11 The payor shall include with each payment a statement reporting the
12 date the obligor's support obligation was withheld.

13 3. Each pay period the payor shall withhold the amounts
14 specified in the notice from the obligor's income and earnings. The
15 amount withheld by the payor shall not exceed the limits on the
16 percentage of an obligor's income which may be assigned for support
17 pursuant to Section 1171.2 of this title.

18 4. The income assignment is binding upon the payor until
19 released or until further order of the court. Not less than thirty
20 (30) days prior to the last payment for child support pursuant to a
21 wage assignment, the Department shall notify the employer.

22 5. All payments shall be made through the Centralized Support
23 Registry as provided in Section 413 of Title 43 of the Oklahoma
24 Statutes.

1 6. If the amount of support due under all income assignments
2 against the obligor exceeds the maximum amount authorized by Section
3 1171.2 of this title, the payor shall pay the amount due up to the
4 statutory limit, and the payor shall send written notice to the
5 person or agency designated to receive payments that the amount due
6 exceeds the amount subject to withholding. If the payor wrongfully
7 fails to pay or notify as required in this subsection, the payor may
8 be liable for an amount up to the accumulated amount due upon
9 receipt of the notice.

10 7. If the payor is the obligor's employer, the payor shall send
11 written notice to the person or agency designated to receive
12 payments within ten (10) days of the date the obligor terminates
13 employment, and shall provide the obligor's last-known address and
14 the name of the obligor's new employer, if known.

15 8. If the payor has no income due or to be due to the obligor
16 in the payor's possession or control or if the obligor has
17 terminated employment with the payor prior to the receipt of notice
18 of income assignment required pursuant to this subsection, the payor
19 shall send written notice to the person or agency designated to
20 receive payments within ten (10) days. Failure to notify the person
21 or agency entitled to support within the required time limit may
22 subject the payor to liability for an amount up to the accumulated
23 amount due upon receipt of the notice of income assignment.

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1 9. The payor is liable for any amount up to the accumulated
2 amount that should have been withheld and paid, and may be fined up
3 to Two Hundred Dollars (\$200.00) for each failure to make the
4 required deductions if the payor:

- 5 a. fails to withhold or pay the support in accordance
6 with the provisions of the income assignment notice,
7 or
- 8 b. fails to notify the person or agency designated to
9 receive payments as required.

10 10. The payor may combine withheld amounts from earnings of two
11 or more obligors subject to the same support order in a single
12 payment and separately identify that portion of the single payment
13 which is attributable to each individual obligor.

14 11. An income assignment for child support shall have priority
15 over any prior or subsequent garnishments of the same wages.

16 12. The payor may deduct from any earnings of the obligor a sum
17 not exceeding Five Dollars (\$5.00) per pay period but not to exceed
18 Ten Dollars (\$10.00) per month as reimbursement for costs incurred
19 by the payor for the income assignment.

20 13. The income assignment shall remain in effect regardless of
21 a change of payor.

22 14. The income assignment shall remain in effect as long as
23 current support is due or until all arrearages for support are paid,
24

1 whichever is later. Payment of arrearages shall not prevent the
2 income assignment from taking effect.

3 15. The payor may not discipline, suspend, discharge, or refuse
4 to promote an obligor because of an income assignment executed
5 pursuant to this section. Any payor who violates this section shall
6 be liable to the obligor for all income, wages, and employment
7 benefits lost by the obligor from the period of unlawful discipline,
8 suspension, discharge, or refusal to promote until the time of
9 reinstatement or promotion.

10 C. Income assignment shall be available to collect any amounts
11 due for child support, child care and medical expenses, as well as
12 current support alimony payments; provided, child support shall be
13 paid prior to any alimony payments.

14 D. Any existing support order or income assignment which is
15 brought before the court shall be modified by the court to conform
16 to the provisions of this section.

17 E. Any person obligated to pay support, who has left or is
18 beyond the jurisdiction of the court, may be prosecuted under any
19 other proceedings available pursuant to the laws of this state for
20 the enforcement of the duty of support and maintenance.

21 F. The income assignment proceedings specified in this section
22 shall be available to other states for the enforcement of support
23 and maintenance or to enforce out-of-state orders. Venue for these
24 proceedings is, at the option of the obligee:

1 1. In the county in this state in which the support order was
2 entered;

3 2. In the county in this state in which the obligee resides; or

4 3. In the county in this state in which the obligor resides or
5 receives income.

6 G. 1. In all child support cases in which child support
7 services are being provided under the state child support plan as
8 provided under Section 237 of Title 56 of the Oklahoma Statutes, all
9 orders for support are subject to immediate income assignment
10 without need for a hearing by the district or administrative court.

11 2. In all child support cases arising out of an action for
12 divorce, paternity, or other proceeding in which services are not
13 being provided under the state child support plan as provided under
14 Section 237 of Title 56 of the Oklahoma Statutes, the court shall
15 order the income of any parent ordered to pay child support to be
16 subject to immediate income assignment regardless of whether child
17 support payments are in arrears at the time of the order, unless:

18 a. one of the parties demonstrates and the court finds
19 that there is good cause not to require immediate
20 income withholding. Any finding that there is good
21 cause not to require immediate income assignment must
22 be based upon at least:

23 (1) a written determination and explanation by the
24 court or administrative authority of why

1 implementing immediate income assignment would
2 not be in the best interests of the child, and
3 (2) proof of timely payment of previously ordered
4 support in cases involving modification of
5 support orders, or

6 b. a written agreement is reached between the parties
7 which provides for an alternative arrangement. For
8 purposes of this subparagraph, "written agreement"
9 means a written alternative arrangement signed by both
10 the custodial and noncustodial parents which has been
11 reviewed by the court and entered into the record by
12 the court or administrative authority.

13 H. The Department shall develop and provide to any court making
14 or enforcing child support orders a matrix of payments indicating
15 differing pay periods to prevent late fee charges by coordinating
16 the payment order with the pay period.

17 I. The Department shall develop and, upon request, make
18 available to employers withholding child support payments pursuant
19 to a court order, a simple, comprehensive manual to include, but not
20 be limited to, compliance procedures and penalties for failure to
21 comply.

22 SECTION 2. This act shall become effective November 1, 2010.
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