ENGROSSED HOUSE AMENDMENT
TO
ENGROSSED SENATE BILL NO. 1199 By: Anderson of the Senate

and

Grau of the House

An Act relating to interest on support payments; amending 10 O.S. 2011, Section 83, which relates to liability to support child; modifying accrual of certain interest; * * * and providing an effective date.

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill and insert

"An Act relating to human services; amending 10 O.S. 2011, Section 83, which relates to liability for support child; modifying accrual of certain interest; amending 43 O.S. 2011, Section 114, which relates to interest on delinquent child support payments; modifying accrual of certain interest; amending 56 O.S. 2011, Section 168, which relates to appeal procedure for certain decisions by the Department of Human Services; authorizing a designee of the Director of the Department of Human Services to review and issue certain decisions; amending 56 O.S. 2011, Sections 238.1 and 238.6B, which relate to notice of support debt and notice of paternity and support obligations; modifying accrual of certain interest; modifying content of certain notice; providing for recodification; and providing an effective date.

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

SECTION 1. AMENDATORY 10 O.S. 2011, Section 83, is amended to read as follows:

Section 83. A. An individual who has been legally determined to be the father of a child pursuant to the Uniform Parentage Act, or an individual who has been judicially or administratively determined to be the father of a child is liable for the support and education of the child to the same extent as the father of a child born in wedlock.

B. 1. An action to enforce the obligation of support and education may be brought by the mother or custodian or guardian of the child, by the public authority chargeable with the support of the child, or by the child.

2. If paternity has been legally determined pursuant to the Uniform Parentage Act, an action to enforce this obligation of support may be brought within the time period specified by paragraph 8 of subsection A of Section 95 of Title 12 of the Oklahoma Statutes.

3. The father's obligation to support is terminated if the child is adopted.

4. The court may order the payments made to the mother or custodian or guardian of the child, or to some other person, corporation or agency to administer under the supervision of the court.

C. An individual who has been legally determined to be the father of a child pursuant to the Uniform Parentage Act shall be ordered to pay all or a portion of the costs of the birth and the reasonable expenses of providing for the child, provided that liability for support provided before the determination of paternity shall be imposed for five (5) years preceding the filing of the action.

D. The amount of child support and other support including amounts provided for in subsection C of this section shall be ordered and reviewed in accordance with the child support guidelines provided in Section 118 of Title 43 of the Oklahoma Statutes. Interest shall accrue on the support amounts pursuant to Section 114 of Title 43 of the Oklahoma Statutes.

E. If both the mother and the father agree to change the surname of the child to that of the father, the court may order the name changed. Upon receipt of an order changing the child's surname, the State Department of Health, Division of Vital Records, shall correct its records and amend the birth certificate to reflect the name change.

SECTION 2. AMENDATORY 43 O.S. 2011, Section 114, is amended to read as follows:

Section 114. Court-ordered past-due child support payments ~~and~~, court-ordered payments of suit moneys and judgments for support pursuant to Section 83 of Title 10 of the Oklahoma Statutes and

Sections 238.1 and 238.6B of Title 56 of the Oklahoma Statutes shall draw interest at the rate of ten percent (10%) per year ~~from the date they become delinquent, and the~~. Past-due child support payments accruing after the establishment of the current support order shall draw interest from the date they become delinquent. Lump-sum judgments pursuant to Titles 10 and 56 of the Oklahoma Statutes for support owed prior to the establishment of current support shall draw interest from the first day of the month after the lump-sum judgment is entered. The interest shall be collected in the same manner as the payments upon which the interest accrues.

SECTION 3. AMENDATORY 56 O.S. 2011, Section 168, is amended to read as follows:

Section 168. A. Any applicant or recipient adversely affected by a decision of the Department of Human Services on benefits or services provided pursuant to the provisions of this title, shall be afforded an opportunity for a hearing pursuant to the provisions of subsection B of this section after such applicant or recipient has been notified of the adverse decision of the Department.

B. 1. Upon timely receipt of a request for a hearing as specified in the notice of adverse decision, the Department shall hold a hearing pursuant to the provisions of Section 310 of Title 75 of the Oklahoma Statutes.

2. The record of the hearing shall include but shall not be limited to:

a. all pleadings, motions, and intermediate rulings,

b. evidence received or considered,

c. any decision, opinion, or report by the officer presiding at the hearing, and

d. all staff memoranda or data submitted to the hearing officer or members of the agency in connection with their consideration of the case.

3. Oral proceedings shall be electronically recorded by the Department. Any party may request a copy of the tape recording of their administrative hearing or may request a transcription of the tape recording to comply with any federal or state law.

4. The decision issued pursuant to this subsection shall be the final decision of the Department unless appealed pursuant to subsection C of this section.

C. Any decision of the Department after such a hearing pursuant to subsection B of this section shall be subject to review by the Director of Human Services <u>or a designee of the Director</u> upon a timely request for review by the applicant, recipient or Department staff. The Director <u>or a designee of the Director</u> shall issue a decision after review or may refer review of the hearing decision to the Commission for Human Services. The referral shall be based on criteria established by the Commission. The ~~Director's~~ decision <u>of the Director or a designee of the Director</u> shall be final unless

appealed as provided by the provisions of subsection D of this section.

D. Any applicant or recipient under this title aggrieved by a decision of the Director <u>or a designee of the Director</u> rendered pursuant to this section may petition the district court in which the applicant or recipient resides for a judicial review of the decision pursuant to the provisions of Sections 318 through 323 of Title 75 of the Oklahoma Statutes. A copy of the petition shall be served by mail upon the General Counsel of the Department.

SECTION 4. AMENDATORY 56 O.S. 2011, Section 238.1, is amended to read as follows:

Section 238.1 A. For the purposes of establishing the amount of the debt which has accrued as provided for in Section 238 of this title, or to establish an obligation for support in the absence of a court order of support, the Division may issue a notice of a support debt to establish current support and support owed for past months in accordance with the child support guidelines, Section 118 of Title 43 of the Oklahoma Statutes. The notice of debt shall be served upon the obligor in the same manner prescribed for the service of summons in a civil action. The notice of debt shall include:

1. A statement of the support debt accrued, as defined in Section 237.7 of this title;

2. The amount of monthly child support required for the minor child as determined by the child support guidelines, Section 118 of Title 43 of the Oklahoma Statutes;

3. A statement that the obligor shall be required to maintain health insurance for the child whenever the obligor has such insurance available through his or her employment or other group insurance plan and pay the proportionate share of medical expenses not reimbursed by insurance, as determined by the court;

4. A statement that the obligor shall be required to keep the Division informed of the obligor's current address, the name and address of the obligor's current employer and access to health insurance and other insurance policy information of the obligor;

5. A statement containing the name of the child and the name of the custodian of the child;

6. A statement that the obligor may object to all or any part of the notice of support debt at a hearing which will be held at a given location on a date specified in the notice to show cause why the obligor should not be determined liable for the support requested in the notice and for any or all of the debt accrued or accruing, and the amount to be paid thereon; and

7. A statement that if the obligor fails to appear at the hearing, the monthly support requested and the support debt shall be made an administrative order subject to collection action and shall be filed in the office of the court clerk in the county of residence

of the custodian of the child or, if the custodian resides out of state, in the county of residence of the obligor or elsewhere as provided in this act. The administrative order shall be enforced in the same manner as an order of the district court.

B. The Division may accept voluntary acknowledgments of support liability and stipulated support amounts. The obligor shall be informed, in the notice specified by this section, that the obligor may make voluntary acknowledgments.

C. The lump-sum judgment established for support owed prior to the establishment of the current support order shall draw interest pursuant to Section 114 of Title 43 of the Oklahoma Statutes.

SECTION 5. AMENDATORY 56 O.S. 2011, Section 238.6B, is amended to read as follows:

Section 238.6B A. The Department of Human Services may serve a notice of paternity and support obligations on an individual alleged to be the parent of a child for whom paternity has not been judicially or administratively established. Venue for such action shall be, at the option of the Department, in the county where the mother, father or child resides. Service of the notice shall be in the same manner as a summons in a civil action pursuant to Section 2004 of Title 12 of the Oklahoma Statutes.

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

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

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

3. The amount of reimbursement for the costs of the birth and the reasonable expenses of providing for said child which has accrued or is accruing, provided that the liability for the above costs shall be imposed for five (5) years preceding the issuance of the notice pursuant to Section 83 of Title 10 of the Oklahoma Statutes;

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

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

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

7. That in the absence of an acknowledgment of paternity, a notice to appear and show cause shall be issued to the putative father which directs the putative father to appear and show cause

why the administrative judge should not determine him to be the father of any such children, liable for the support requested in the notice, for the costs accrued and accruing or the amount to be paid thereon;

8. That if paternity is disputed and no acknowledgment of paternity has been executed under the Uniform Parentage Act, the Administrative Law Judge shall enter an order directing genetic tests to determine paternity and advise the putative father that if he fails to appear he will be in default and an order will be entered against him. If the putative father is not excluded, and the statistical probability of paternity according to scientifically reliable genetic tests including, but not limited to, blood tests is at least ninety-nine percent (99%) and he is contesting the issue of paternity, he may request the Department to remove the action to district court to determine paternity. If the statistical probability of paternity is ninety-nine percent (99%), and the father does not request the Department to remove to district court within fourteen (14) days of the Department mailing the genetic test or other test results, determination of paternity shall become final for all intents and purposes and may be overturned only by appeal to district court. Any such request shall be in writing and served on the Department personally or by registered or certified mail;

9. That if the putative father fails to appear at the genetic testing, show cause, or any subsequent hearing or if no notice to

appear for genetic testing was served and no hearing is requested on or before twenty (20) days from the date of service, the finding of paternity shall become final and a support order entered. The order shall be docketed with the district court in the county of residence of the custodian or the child. If neither the custodian nor the child reside in the state, the order shall be docketed in the county of residence of the noncustodial parent. The support order shall be enforced in the same manner as an order of the district court;

10. That at any time after paternity is determined, the Department may set a hearing to determine the child support obligation, if child support has not already been established. Failure to appear at the hearing will result in a support order being entered against the noncustodial parent; and

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

a. sixty (60) days, or

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

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

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

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

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

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

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

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

H. If both the custodian mother and the father agree to change the surname of the child to that of the father, the administrative law judge may order the name changed. Upon receipt of an order changing the child's surname, the State Department of Health,

Division of Vital Records shall correct its records and amend the birth certificate to reflect the name change.

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

J. The lump-sum judgment established for support owed prior to the establishment of the current support order shall draw interest pursuant to Section 114 of Title 43 of the Oklahoma Statutes.

SECTION 6. RECODIFICATION 63 O.S. 2011, Section 1-240, shall be recodified as Section 440 of Title 10 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 7. RECODIFICATION 63 O.S. 2011, Section 1-241, shall be recodified as Section 441 of Title 10 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 8. This act shall become effective November 1, 2012."

Passed the House of Representatives the 10th day of April, 2012.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2012.

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Presiding Officer of the Senate