

1 **SENATE FLOOR VERSION**

2 February 11, 2014

3 SENATE BILL NO. 1898

By: Sykes of the Senate

4 and

5 Peterson of the House

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7  
8 An Act relating to allocation of child support  
9 payments; amending 12 O.S. 2011, Section 1171.3,  
10 which relates to income assignment proceedings;  
11 requiring inclusion of certain information with  
12 certain payment; amending 43 O.S. 2011, Section 413,  
13 which relates to payment of support through registry;  
14 directing allocation of certain payments; and  
15 providing an effective date.

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

17 SECTION 1. AMENDATORY 12 O.S. 2011, Section 1171.3, is  
18 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. The notice shall be sent by certified mail, return receipt  
2 requested or served according to law. The payor shall be required  
3 to comply with the provisions of this subsection and the provisions  
4 stated in the notice.

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

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

19 4. The income assignment is binding upon the payor until  
20 released or until further order of the court.

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

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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,  
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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 SECTION 2. AMENDATORY 43 O.S. 2011, Section 413, is  
14 amended to read as follows:

15 Section 413. A. The Department of Human Services shall  
16 maintain a Centralized Support Registry to receive, allocate and  
17 distribute support payments. All child support, spousal support,  
18 and related support payments shall be paid through the Registry as  
19 follows:

20 1. In all cases in which child support services are being  
21 provided under the state child support plan as provided under  
22 Section 237 of Title 56 of the Oklahoma Statutes; and

23 2. In all other cases in which support is being paid by income  
24 withholding.

1 B. When child support enforcement services are being provided  
2 under Section 237 of Title 56 of the Oklahoma Statutes, all monies  
3 owed for child support shall continue to be paid through the  
4 Registry until child support is no longer owed.

5 C. Any party desiring child support, spousal support, or  
6 related support payments to be paid through the Registry may request  
7 the court to order the payments to be made through the Registry.  
8 Upon such request the court shall order payments to be made through  
9 the Registry.

10 D. The Registry shall maintain the following information on all  
11 cases in which support is paid through the Registry. This  
12 information shall include, but not be limited to:

- 13 1. Names, social security numbers and dates of birth for both  
14 parents and the children for whom support is ordered;
- 15 2. The amount of periodic support owed under the order;
- 16 3. Case identification numbers; and
- 17 4. Payment address.

18 E. In all cases, except those being enforced under the state  
19 child support plan as provided under Section 237 of Title 56 of the  
20 Oklahoma Statutes, employers shall provide the Registry with a copy  
21 of the notice of income assignment specified in Section 1171.3 of  
22 Title 12 and Section 240.2 of Title 56 of the Oklahoma Statutes.  
23 Employers, parties, and obligees to an order, upon request, shall  
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1 provide additional information necessary for the Registry to  
2 identify and properly allocate and distribute payments.

3 F. An obligee, pursuant to a judgment, decree, or order in  
4 which payment of support is required by this section to be paid  
5 through the Registry or whose support is being paid through the  
6 Registry, shall provide information as directed by the Department of  
7 Human Services necessary to properly allocate and distribute the  
8 payments.

9 G. All payments made through the Registry shall be allocated  
10 and distributed in accordance with ~~Department of Human Services'~~  
11 ~~policy and federal regulations,~~ where applicable, and thereafter  
12 shall be applied to the case identification number designated by the  
13 obligor for payment.

14 H. The Department of Human Services shall promulgate rules as  
15 necessary to implement the provisions of this section.

16 SECTION 3. This act shall become effective November 1, 2014.

17 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
18 February 11, 2014 - DO PASS

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