

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 SENATE BILL 1898

By: Sykes

4
5
6 AS INTRODUCED

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

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

16 SECTION 1. AMENDATORY 12 O.S. 2011, Section 1171.3, is
17 amended to read as follows:

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

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

1 requested or served according to law. The payor shall be required
2 to comply with the provisions of this subsection and the provisions
3 stated in the notice.

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

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.

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

23 6. If the amount of support due under all income assignments
24 against the obligor exceeds the maximum amount authorized by Section

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

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

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

22 9. The payor is liable for any amount up to the accumulated
23 amount that should have been withheld and paid, and may be fined up
24

1 to Two Hundred Dollars (\$200.00) for each failure to make the
2 required deductions if the payor:

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

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

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

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

18 13. The income assignment shall remain in effect regardless of
19 a change of payor.

20 14. The income assignment shall remain in effect as long as
21 current support is due or until all arrearages for support are paid,
22 whichever is later. Payment of arrearages shall not prevent the
23 income assignment from taking effect.

24

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

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

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

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

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

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

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

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

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

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

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

21 (1) a written determination and explanation by the
22 court or administrative authority of why
23 implementing immediate income assignment would
24 not be in the best interests of the child, and

1 (2) proof of timely payment of previously ordered
2 support in cases involving modification of
3 support orders, or

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

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

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

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

21 2. In all other cases in which support is being paid by income
22 withholding.

23 B. When child support enforcement services are being provided
24 under Section 237 of Title 56 of the Oklahoma Statutes, all monies

1 owed for child support shall continue to be paid through the
2 Registry until child support is no longer owed.

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

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

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

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

24

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

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

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

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

15

16 54-2-2116 TEK 1/16/2014 3:54:40 PM

17

18

19

20

21

22

23

24