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February 21, 2012

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; 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, 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; 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.

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

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

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

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

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

22 D. The amount of child support and other support including
23 amounts provided for in subsection C of this section shall be
24 ordered and reviewed in accordance with the child support guidelines

1 provided in Section 118 of Title 43 of the Oklahoma Statutes.

2 Interest shall accrue on the support amounts pursuant to Section 114
3 of Title 43 of the Oklahoma Statutes.

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

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

12 Section 114. Court-ordered past due child support payments ~~and,~~
13 court-ordered payments of suit moneys and judgments for support
14 pursuant to Section 83 of Title 10 of the Oklahoma Statutes and
15 Sections 238.1 and 238.6B of Title 56 of the Oklahoma Statutes shall
16 draw interest at the rate of ten percent (10%) per year ~~from the~~
17 ~~date they become delinquent, and the.~~ Past due child support
18 payments accruing after the establishment of the current support
19 order shall draw interest from the date they become delinquent.
20 Lump sum judgments pursuant to Titles 10 and 56 of the Oklahoma
21 Statutes for support owed prior to the establishment of current
22 support shall draw interest from the first day of the month after
23 the lump sum judgment is entered. The interest shall be collected
24 in the same manner as the payments upon which the interest accrues;

1 provided that, all payments shall be applied first to principal
2 balances.

3 SECTION 3. AMENDATORY 56 O.S. 2011, Section 238.1, is
4 amended to read as follows:

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

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

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

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

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

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

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

13 7. A statement that if the obligor fails to appear at the
14 hearing, the monthly support requested and the support debt shall be
15 made an administrative order subject to collection action and shall
16 be filed in the office of the court clerk in the county of residence
17 of the custodian of the child or, if the custodian resides out of
18 state, in the county of residence of the obligor or elsewhere as
19 provided in this act. The administrative order shall be enforced in
20 the same manner as an order of the district court.

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

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

4 SECTION 4. AMENDATORY 56 O.S. 2011, Section 238.6B, is
5 amended to read as follows:

6 Section 238.6B. A. The Department of Human Services may serve
7 a notice of paternity and support obligations on an individual
8 alleged to be the parent of a child for whom paternity has not been
9 judicially or administratively established. Venue for such action
10 shall be, at the option of the Department, in the county where the
11 mother, father or child resides. Service of the notice shall be in
12 the same manner as a summons in a civil action pursuant to Section
13 2004 of Title 12 of the Oklahoma Statutes.

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

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

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

23 3. The amount of reimbursement for the costs of the birth and
24 the reasonable expenses of providing for said child which has

1 accrued or is accruing, provided that the liability for the above
2 costs shall be imposed for five (5) years preceding the issuance of
3 the notice pursuant to Section 83 of Title 10 of the Oklahoma
4 Statutes;

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

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

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

13 7. That in the absence of an acknowledgment of paternity, a
14 notice to appear and show cause shall be issued to the putative
15 father which directs the putative father to appear and show cause
16 why the administrative judge should not determine him to be the
17 father of any such children, liable for the support requested in the
18 notice, for the costs accrued and accruing or the amount to be paid
19 thereon;

20 8. That if paternity is disputed and no acknowledgment of
21 paternity has been executed under the Uniform Parentage Act, the
22 Administrative Law Judge shall enter an order directing genetic
23 tests to determine paternity and advise the putative father that if
24 he fails to appear he will be in default and an order will be

1 entered against him. If the putative father is not excluded, and
2 the statistical probability of paternity according to scientifically
3 reliable genetic tests including, but not limited to, blood tests is
4 at least ninety-nine percent (99%) and he is contesting the issue of
5 paternity, he may request the Department to remove the action to
6 district court to determine paternity. If the statistical
7 probability of paternity is ninety-nine percent (99%), and the
8 father does not request the Department to remove to district court
9 within fourteen (14) days of the Department mailing the genetic test
10 or other test results, determination of paternity shall become final
11 for all intents and purposes and may be overturned only by appeal to
12 district court. Any such request shall be in writing and served on
13 the Department personally or by registered or certified mail;

14 9. That if the putative father fails to appear at the genetic
15 testing, show cause, or any subsequent hearing or if no notice to
16 appear for genetic testing was served and no hearing is requested on
17 or before twenty (20) days from the date of service, the finding of
18 paternity shall become final and a support order entered. The order
19 shall be docketed with the district court in the county of residence
20 of the custodian or the child. If neither the custodian nor the
21 child reside in the state, the order shall be docketed in the county
22 of residence of the noncustodial parent. The support order shall be
23 enforced in the same manner as an order of the district court;

24

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

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

11 a. sixty (60) days, or

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

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

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

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

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

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

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

1 of paternity and support obligations to the father by certificate of
2 mailing to the last-known address of the father.

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

13 H. If both the custodian mother and the father agree to change
14 the surname of the child to that of the father, the administrative
15 law judge may order the name changed. Upon receipt of an order
16 changing the child's surname, the State Department of Health,
17 Division of Vital Records shall correct its records and amend the
18 birth certificate to reflect the name change.

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

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

24 SECTION 5. This act shall become effective November 1, 2012.

1 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-14-12 - DO
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