

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1426

By: Daniels

AS INTRODUCED

An Act relating to child support; amending 56 O.S. 2021, Sections 238.5A and 240.23, which relate to use of child support guidelines and orders over Director's signature; requiring Department of Human Services to ensure review of certain orders; authorizing Director to enter order of modification; authorizing issuance of notice to modify child support order under certain circumstances; requiring Department to provide certain notice; providing for service of certain notice; requiring Department to set hearing upon request; requiring notice of certain hearing; requiring filing of certain administrative orders in district court; authorizing appeal of certain administrative orders; requiring Department to promulgate certain rules; conforming language; repealing 43 O.S. 2021, Section 118.1, which relates to Department review of child support orders; and providing an effective date.

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

SECTION 1. AMENDATORY 56 O.S. 2021, Section 238.5A, is amended to read as follows:

Section 238.5A. ~~The~~ A. In all cases in which child support services are being provided under the state child support plan as provided in Section 237 of this title, the Department shall ensure that the amount of child support and other support shall be is

1 ordered and reviewed in accordance with the child support guidelines  
2 provided in Section 118 of Title 43 of the Oklahoma Statutes.

3 B. The Director of the Department of Human Services may enter  
4 an order of modification pursuant to Section 240.23 of this title  
5 without the necessity of obtaining an additional signature of a  
6 district or administrative court judge.

7 C. Whenever the Department determines that an order for child  
8 support may not be in accordance with the child support guidelines  
9 set forth in Section 118 et seq. of Title 43 of the Oklahoma  
10 Statutes, the Department may issue a notice to modify the order for  
11 child support.

12 D. The Department shall serve notice on the obligor and the  
13 custodial person informing them of the following:

14 1. The style and case number of the child support order or  
15 orders being enforced by the Department;

16 2. The date the notice is issued;

17 3. The initials and dates of birth of the child or children who  
18 are the subject or subjects of the order for child support;

19 4. The amount of the existing monthly child support obligations  
20 as defined in Section 118 et seq. of Title 43 of the Oklahoma  
21 Statutes;

22 5. That the monthly child support obligation may not be in  
23 compliance with the child support guidelines;

1       6. That according to information in the records of the  
2 Department, the order for child support and other support should be  
3 modified;

4       7. The proposed modified amount of child support that should be  
5 paid in accordance with the child support guidelines;

6       8. The proposed medical support order;

7       9. The proposed child care expenses;

8       10. The amount of past due support owed by the obligor and a  
9 monthly judgment payment if the Department is requesting a judgment;

10       11. That unless either party requests a hearing, the proposed  
11 modified monthly child support and other support obligations shall  
12 become the monthly court-ordered child support amount twenty (20)  
13 days after service of process on each party;

14       12. That the modification of the child support obligation shall  
15 be effective the first day of the month following the date the  
16 notice is issued;

17       13. That an immediate income assignment shall be ordered  
18 pursuant to Section 115 of Title 43 of Oklahoma Statutes;

19       14. That all payments for child support shall be made to the  
20 Centralized Support Registry at the address specified in the notice  
21 pursuant to Section 413 of Title 43 of Oklahoma Statutes, and any  
22 payments made other than to the Centralized Support Registry may not  
23 be credited to the amount owed;

1       15. The address of record for the obligor and custodial person  
2 on file with the Central Case Registry pursuant to Section 112A of  
3 Title 43 of Oklahoma Statutes;

4       16. That either party may request an administrative hearing on  
5 a form attached to the notice within twenty (20) days of the date  
6 the notice is served; and

7       17. That the notice shall become the director's order of  
8 modification and shall be filed with the clerk of the district  
9 court. Such order shall have the same legal effect as an order of  
10 the court and be enforceable as a court order.

11       E. The notice provided for in this section shall be served by  
12 the Department upon the obligor and custodial person as provided in  
13 Section 2004 of Title 12 of the Oklahoma Statutes, or if there is an  
14 address of record on file with the Central Case Registry pursuant to  
15 Section 112A of Title 43 of the Oklahoma Statutes, the notice may be  
16 served by regular mail at the address of record.

17       F. Upon receipt of a timely request for hearing, the Department  
18 shall set the matter for a hearing. The obligor and custodial  
19 person shall be given notice of the hearing as provided in  
20 subsection B of Section 2005 of Title 12 of the Oklahoma Statutes.  
21 The notice shall state that failure to appear at the scheduled  
22 hearing may result in a child support order being entered by default  
23 as set forth in the original proposed notice. An administrative  
24 order shall be filed in the district court pursuant to Section

1 237.10 of this title. A final administrative order entered pursuant  
2 to this section may be appealed pursuant to Section 240.3 of this  
3 title.

4 G. The Department shall promulgate rules as necessary to  
5 implement the provisions of this section.

6 SECTION 2. AMENDATORY 56 O.S. 2021, Section 240.23, is  
7 amended to read as follows:

8 Section 240.23. A. The Division has the authority to enter  
9 orders in the following actions over the signature of the Director  
10 and without the necessity of obtaining an additional signature of a  
11 district or administrative court judge:

12 1. To subpoena any financial or other information needed to  
13 establish, modify, or enforce a support order and to impose  
14 penalties for failure to respond to a subpoena; provided, that the  
15 subpoena shall comply with the provisions of Section 2204 of Title 6  
16 of the Oklahoma Statutes;

17 2. In cases in which there is a support arrearage, to secure  
18 assets by:

19 a. intercepting or seizing periodic or lump-sum payments  
20 from:

21 (1) a state or local agency, including unemployment  
22 compensation, workers' compensation, and other  
23 benefits, and

24 (2) judgments, settlements, and lotteries,

- b. attaching and seizing assets of the obligor held in financial institutions,
- c. attaching public and private retirement funds, and
- d. imposing liens in accordance with Section 135 of Title 43 of the Oklahoma Statutes;

3. To increase the monthly payment of child support, for purposes of securing overdue support, in an amount not to exceed five percent (5%) of the total child support order. This increase may not be made more than once every twelve (12) months. This remedy is in addition to and not in lieu of any other remedy provided by law or by court order;

4. If an income assignment is not ordered or in place by operation of law for collection of support monies, the Division is authorized to implement income withholding by sending a notice of income assignment for support to any payor of income to the obligor; and

5. To require both parents to appear for genetic testing in cases where paternity has not been established or admitted. The Division shall send notice to the putative father containing information on how to appear and admit paternity or object to the order for genetic testing. An objection to genetic testing shall require the putative father to complete an affidavit contesting paternity on a form prescribed by the Division. An order for

1 genetic testing under this subsection may be docketed and enforced  
2 in the district court by indirect contempt; and

3 6. If the Division determines that an order for child support  
4 may not be in accordance with the child support guidelines set forth  
5 in Section 118 et seq. of Title 43 of the Oklahoma Statutes, the  
6 Division may issue a notice to modify the order for child support.  
7 The Director's order of modification shall have the same legal  
8 effect as a court order and shall be enforceable as a court order.  
9 The Director's order of modification shall be docketed in the  
10 district court.

11 B. With respect to paragraphs 2, ~~and 3,~~ and 6 of subsection A  
12 of this section, at the time of the action, the Division shall send  
13 a notice to the obligor explaining the obligor's rights ~~to object to~~  
14 ~~the action and the procedure to have it modified or reversed.~~

15 SECTION 3. REPEALER 43 O.S. 2021, Section 118.1, is  
16 hereby repealed.

17 SECTION 4. This act shall become effective November 1, 2022.

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