

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

SENATE BILL 1336

By: Cain

AS INTRODUCED

An Act relating to child support; amending 56 O.S. 1991, Sections 237, as last amended by Section 15, Chapter 323, O.S.L. 1998, Section 16, Chapter 323, O.S.L. 1998, Section 3, Chapter 153, O.S.L. 1992, 240, as renumbered by Section 14, Chapter 365, O.S.L. 1994, and as last amended by Section 17, Chapter 323, O.S.L. 1998, 238.5A, 240.1, as last amended by Section 19, Chapter 323, O.S.L. 1998, Sections 4, 6 and 7, Chapter 354, O.S.L. 1995, and Section 33, Chapter 402, O.S.L. 1997 (56 O.S. Supp. 1999, Sections 237, 237A, 237.3, 237.7, 240.1, 240.15, 240.17, 240.18 and 240.23), which relate to assistance provided to children by the Department of Human Services Child Support Enforcement Division; conforming language; changing condition for transfer of child support obligation; modifying contents of notice of assignment or application; deleting obsolete language; clarifying language; modifying contents of certain notice to obligor; providing for service of certain notice on custodian by regular mail; limiting obligor's ability to contest contents of certain notice under certain circumstances; providing for state representation by attorneys contracting with the Department of Human Services Child Support Enforcement Division; modifying definition; updating statutory reference; providing for nonissuance or nonrenewal of driver license and driving privileges of obligor; providing for service of notice relating to driving privileges by regular mail; reducing time period for response to notice or request for hearing; limiting judicial review of Department of Human Services determinations to record of administrative proceedings; allowing Department of Human Services to implement income withholding by notice to any payor of income to obligor; and providing an effective date.

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

SECTION 1. AMENDATORY 56 O.S. 1991, Section 237, as last amended by Section 15, Chapter 323, O.S.L. 1998 (56 O.S. Supp. 1999, Section 237), is amended to read as follows:

Section 237. A. The Department of Human Services, hereinafter referred to as "Department", as the single state agency designated to administer a statewide plan for child support, is authorized, in accordance with Title IV, Part D, of the Federal Social Security Act, as amended, 42 U.S.C., Section 651 et seq., to provide child support services, parent location services, and paternity determination services to enable participation in programs established by federal law.

B. The Department is authorized to:

1. Accept, transfer, and expend funds made available by the government of the United States, the State of Oklahoma, and public or private sources, for the purpose of carrying out the provisions of this section;

2. Promulgate rules ~~to provide~~ for child support services;

3. Initiate legal actions needed to implement the provisions of this section;

4. Enter into contracts or agreements necessary to administer this section; and

5. Require agencies and political subdivisions of ~~the~~ this state, ~~county, or municipality~~ its counties and municipalities, persons, sole proprietorships, corporations, utilities, partnerships, associations, organizations, and other legal entities doing business in this state to provide information to the Child Support Enforcement Division to assist in locating individuals and in establishing and enforcing court orders.

C. 1. An applicant for or recipient of Temporary Assistance for Needy Families, hereinafter referred to as "recipient", shall be required to assign to the Department any rights ~~of~~ to or support from any other person which the recipient may have ~~in his or her own behalf~~ or for a child for whom the recipient is applying ~~for~~ or receiving assistance in accordance with federal regulations and state law.

2. When an order has been entered which provides for payment of child support and the obligee pursuant to the order relinquishes physical custody of the child to another custodian, without obtaining a modification of the order to change custody or to redirect the support to the new custodian, the relinquishment shall transfer the child support obligation pursuant to the order to the new custodian or the Department if ~~an assignment of support rights has been made~~ services are being provided under the state child support plan as provided in this section. The transfer of the obligation shall terminate when the new custodian no longer has physical custody of the child, except for the amount of unpaid support still owing to the custodian or to the Department ~~pursuant to an assignment~~.

3. In all cases in which support services are being provided under the state child support plan as provided in this section, support payments shall be made by the obligor to the Department or its designee. If a court has ordered support payments to be made to the recipient or to the applicant, the Department may send a notice of the assignment or application to the obligor requiring that all support payments be made to the Division or its designee. The notice shall include:

- a. a statement that the assignment or application has been made,
- b. ~~the name of the child for whom support has been ordered by the court and the name of the recipient or custodian of the child,~~
- ~~e.~~ the style and cause number of the case in which support was ordered,
- ~~d.~~ c. a statement that all payments so ordered shall be made to the Department or its designee, and
- ~~e.~~ d. a statement that ~~a notice of income assignment will be sent to the obligor's employer or other payor of~~

~~income~~ the obligor's earnings and income are assigned for collection of support monies owed.

4. A notice to redirect the payments shall be sent to the obligor by regular mail with proof of mailing from the United States Postal Service. If, after notice of the redirection, the obligor does not make payments to the Department as provided in the notice, the payments shall not be credited to the amount owed. The obligor shall notify the Department of any change of address, the name and address of the current employer, and access to health insurance and other insurance policy information within thirty (30) days of any change.

~~5. Effective October 1, 1998, or upon implementation of the Centralized Support Registry, whichever occurs first, the notice provided for in paragraph 3 of this subsection shall be replaced by the notice provided for in Section 16 of this act.~~

D. When the right to receive support ~~rights have~~ has been assigned to the Child Support Enforcement Division or upon proper application by an obligor or by an individual not receiving Temporary Assistance for Needy Families, the Division may petition the district court or the Office of Administrative Hearings: Child Support, an administrative court of the Department of Human Services, for an order:

1. Requiring the obligor to provide health insurance for the dependent children whenever it is available through employment or other group plan regardless of whether the obligor has insurance coverage available at that time or there has been a change of circumstances;

2. Establishing paternity;

3. Requiring medical support, child support, or other support;

4. Enforcing orders for paternity, medical support, child support, or other support;

5. Requiring that the obligor keep the Division informed of the name and address of the current employer of the obligor and of any health insurance or other insurance policy information of the obligor within thirty (30) days of any change;

6. ~~Making~~ Providing for collection and distribution of child support monies; and

7. Assisting in the location of absent parents and their assets, in cooperation with federal agencies, other agencies of this state and of other states, territories, and foreign nations requesting assistance with the enforcement of support orders entered in the United States and elsewhere.

E. The Division may petition the district or administrative court to modify any order for support regardless of whether there has been a change of circumstances.

F. A reasonable fee and costs may be assessed for services to individuals not receiving Temporary Assistance for Needy Families ~~under~~ pursuant to rules ~~adopted~~ promulgated by the Department.

~~E.~~ G. Child support payments made to the Division pursuant to this section shall be deposited in the Child Support Escrow Account for distribution as may be required by Section 235 of this title, or by 42 U.S.C., Section 651 et seq. Fees or reimbursements of costs collected by the Department shall be deposited in the Administration Fund of the Department and may be used and expended by the Department for the purposes of carrying out the provisions of this section.

~~F.~~ H. Except as otherwise authorized by law, all files and records concerning the assistance and services provided under this section or concerning a putative father of a child born out of wedlock are confidential. Release of information from the files and records shall be restricted to purposes directly connected with the administration of the child support collection, paternity determination, parent location, or Temporary Assistance for Needy

Families programs. Information may be released to public officials under rules adopted by the Department, consistent with federal rules or regulations.

SECTION 2. AMENDATORY Section 16, Chapter 323, O.S.L. 1998 (56 O.S. Supp. 1999, Section 237A), is amended to read as follows:

Section 237A. A. ~~Effective October 1, 1998, or upon implementation of the Centralized Support Registry provided for in Section 413 of Title 43 of the Oklahoma Statutes, hereafter referred to as the Registry, whichever occurs first, in~~ In all cases being enforced by the Department of Human Services pursuant to the state child support plan, the Department shall serve a notice upon the obligor no less than once every twelve (12) months informing the obligor of the following, that:

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

2. The amount of the current support obligation and the total amount of alleged past due support pursuant to the support order or orders;

3. All payments for current support and payments for past due support owed to the Department or to the obligee ~~must~~ shall be paid to the Centralized Support Registry at the address specified in the notice, and thereafter, any payments made other than to the Registry shall not be credited to the amount owed;

4. The obligor's street address and mailing address as stated in the notice shall be the obligor's address or addresses of record on file in the Registry; and thereafter, the obligor must inform the Registry in writing thirty (30) days of any change;

5. If the information contained in the notice is incorrect or incomplete concerning the name and address of the obligor's current employer or other payors of income, dependent health insurance information, or other information requested by the Department, the

obligor ~~shall~~ is required to inform the Registry in writing of any changes or additions to the information within thirty (30) days of service of the notice; and thereafter, to inform the Registry within thirty (30) days of any change;

6. An income assignment is in effect and that the amounts specified in the notice shall be withheld from the obligor's income for current support and past due support;

7. The income assignment will be served upon all current and subsequent payors of income without further notice to the obligor;

8. The income assignment will remain in effect regardless of whether any past due amounts are owed, for as long as the order upon which it is based, or for as long as past due support is owed, whichever is later, and payment of any amount will not prevent the income assignment from taking effect;

9. If there is no order for payment of the past due amount, when any amount of support becomes thirty (30) days past due, the Department is authorized to direct the obligor's payor of income ~~will be notified~~ to withhold an amount equal to twenty-five percent (25%) of the current support obligation, and that that amount shall continue to be withheld until the past due support is paid in full, or until further order;

10. If the obligor has failed to comply with an order to provide health insurance, the obligor's employer will be required to enroll the obligor's minor children who are the subject of the referenced order in any dependent health insurance plan offered by the employer to the obligor, and to deduct the amount of the premium from the obligor's income;

11. A list of all actions and remedies the Department may take to enforce the order and to collect past due support. The list may include a specific payment plan;

12. The obligor will be given this notice no less than once every twelve (12) months, and after initial service of the notice as

provided in subsection ~~B~~ C of this section, subsequent notices will be mailed by regular mail to the last address for the obligor on file in the Registry;

13. The obligor may request an administrative review on a form attached to the notice within twenty (20) days of the date the notice is served upon the obligor which will be granted only on the following grounds:

- a. a mistake of identity, or
- b. the existence or the amount of current support or past due support is incorrect, ~~or~~
- c. ~~the amount of periodic payment on the past due amount to be withheld from the obligor's income will create an undue hardship upon the obligor;~~

14. The obligor has been given notice and opportunity to contest the past due amount stated in the notice and that the obligor will not be entitled to another opportunity to contest that amount;

15. The notice will have the same effect as a court order and will be enforceable as a court order.

B. The notice shall be filed, at the option of the Department, with the clerk of the district court in the county of residence of the custodian of the child, in the county of residence of the obligor, or in the county of the underlying support order or in any other county in which the obligor has real or personal property.

C. The notice provided for in this section shall be sent to the obligor and to the custodian of the child no less than once every twelve (12) months. The initial notice shall be served by the Department upon the obligor ~~and the custodian~~ as provided in Section 2004 of Title 12 of the Oklahoma Statutes and on the custodian by regular mail. Thereafter, the Department shall serve the obligor and the custodian subsequent notices by regular mail with a certificate of mailing ~~from the United States Postal Service~~.

Subsequent notices shall be mailed to the last address of record for the obligor and the custodian on file with the Registry.

D. An obligor may request an administrative review pursuant to this section by delivering a request to the Department in writing or on the form provided within twenty (20) days of the date the notice is served upon the obligor. If the notice is a subsequent notice as provided in subsection B of this section, the date of service shall be the date the notice is mailed to the obligor, and the notice shall state the date it is being mailed.

E. 1. Upon receipt of a timely request for an administrative review, the Department shall schedule a review to be held within thirty (30) days of receipt of the request. The obligor shall be served with notice of the administrative review as provided in subsection B of Section 2005 of Title 12 of the Oklahoma Statutes. The review shall be conducted by an employee of the Department who will attempt to resolve all disputed issues without the necessity of a hearing. If all issues are resolved at the review, the obligor shall sign an agreed administrative or district court order which shall be filed, at the option of the Department, with the clerk of the district court in the county of residence of the custodian of the child, in the county of residence of the obligor, in the county of the underlying support order, or in any other county in which the obligor has real or personal property.

2. If all disputed issues are not resolved at the administrative review, the Department ~~will~~ shall set the matter for an administrative hearing. The obligor shall be served with notice of the hearing as provided in subsection B of Section 2005 of Title 12 of the Oklahoma Statutes. The administrative court shall hear the matter and shall enter an order determining the contested issues and affirming the other provisions of the notice. The administrative order shall be filed, at the option of the Department, with the clerk of the district court in the county of

residence of the custodian of the child, in the county of residence of the obligor, in the county of the underlying support order, or in any other county in which the obligor has real or personal property.

3. If the obligor fails to request a timely administrative review, or fails to appear for a review or an administrative hearing, the obligor may no longer contest the contents of the notice, and ~~thereafter~~ the obligor shall be obligated to make payments pursuant to the payment plan as stated in the notice to collect the past due support and those amounts shall be subject to income withholding. The notice shall have the same legal effect as a court order and be enforceable as a court order. The notice with proof of service upon the obligor and the custodian of the child shall be filed, at the option of the Department, with the clerk of the district court in the county of residence of the custodian of the child, in the county of residence of the obligor, in the county of the underlying support order, or in any other county in which the obligor has real or personal property.

4. The administrative court may order an obligor to pay all costs involved in proceedings under this subsection.

5. A final administrative order entered pursuant to this section shall be served upon the obligor in accordance with subsection B of Section 2005 of Title 12 of the Oklahoma Statutes.

6. A final administrative order entered pursuant to this section may be appealed pursuant to Section 240.3 of ~~Title 56 of the Oklahoma Statutes~~ this title.

SECTION 3. AMENDATORY Section 3, Chapter 153, O.S.L. 1992 (56 O.S. Supp. 1999, Section 237.3), is amended to read as follows:

Section 237.3 A. Attorneys employed by, or contracting with, the Department of Human Services for the establishment of paternity and the establishment, enforcement, and collection of child support obligations under Part D of Title IV of the Federal Social Security

Act, 42 U.S.C., Section 651 et seq., or attorneys acting for ~~said~~
the Department through an agreement as set forth in Section 237.1 of
this title may represent the state or other states in administrative
or civil actions.

B. Department attorneys represent the state and not the
interests of any other party. Providing services under Title IV-D
of the Federal Social Security Act does not create an attorney-
client relationship with any other party.

C. Neither the Department of Human Services nor any attorney
providing services under Title IV-D of the Federal Social Security
Act shall be authorized to accept service, as authorized in Section
2005 of Title 12 of the Oklahoma Statutes, for any party other than
the Department of Human Services.

SECTION 4. AMENDATORY 56 O.S. 1991, Section 240, as
renumbered by Section 14, Chapter 365, O.S.L. 1994, and as last
amended by Section 17, Chapter 323, O.S.L. 1998 (56 O.S. Supp. 1999,
Section 237.7), is amended to read as follows:

Section 237.7 For the purposes of Sections ~~238~~ 237 through
240.23 of this title:

1. The "Child Support Enforcement Division of the Department of
Human Services", hereinafter referred to as the "Division" or as the
"Department", is the state agency designated to administer the child
support enforcement program for the State of Oklahoma and its
District Offices, which may be administered through contract or
cooperative agreements. The District Offices provide enforcement
services to individuals receiving Temporary Assistance for Needy
Families, hereinafter referred to as "TANF", and to individuals not
receiving TANF who have made proper application for enforcement
services to the Division;

2. "Director" means the Director of the Department of Human
Services who shall have the authority to enter orders in appropriate

cases or as otherwise provided by law, without the necessity of an additional signature of a district or administrative judge;

3. "Office of Administrative Hearings: Child Support (Legal Division, Department of Human Services, State of Oklahoma)", hereinafter referred to as "OAH", conducts child support enforcement administrative hearings. All hearings are conducted by administrative law judges assigned to OAH;

4. "Support debt" means a debt owed to the State of Oklahoma by the natural, legal or adoptive parents who are responsible for support of a child or children receiving public assistance money from the Department or the reasonable expenses of providing for a child or children. The amount of the debt shall be determined in accordance with the provisions of Section 118 of Title 43 of the Oklahoma Statutes;

5. "Arrearage" or "past due support" means the total amount of unpaid support obligations;

6. "Delinquency" means any payment under an order for support which becomes due and remains unpaid;

7. a. "Gross income" or "income" means income from any source and includes, but is not limited to, income from salaries, wages, commissions, bonuses, dividends, severance pay, pensions, rent, interest income, trust income, annuities, compensation as an independent contractor, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, gifts, prizes, any form of periodic payment to an individual regardless of source, and any other payments made by any person, private entity, federal or state government, any unit of local government, school district, or any entity created by law. Income specifically excluded are actual child support

received for children not before the court and benefits received from means-tested public assistance programs, including but not limited to TANF, Supplemental Security Income (SSI), Food Stamps, General Assistance and State Supplemental Payments for Aged, Blind, and the Disabled.

b. For purposes of computing gross income of the parents, gross income shall include for each parent all actual monthly income described in this paragraph, the average of the gross monthly income for the time actually employed during the previous three (3) years, or the minimum wage paid for a forty-hour week, whichever is the most equitable. If equitable, gross monthly income for either parent may be imputed in an amount that a person with comparable education, training, and experience could reasonably expect to earn. If a person is permanently physically or mentally incapacitated, the child support obligation shall be computed on the basis of actual monthly gross income;

8. "Earnings" means amounts paid to a person as an employee, including wages and salary;

9. "Disposable income" means income or earnings less any amounts required by law to be withheld, including, but not limited to, federal, state, and local taxes, Social Security, and public assistance payments;

10. "Obligor" means the person who is required to make payments under an order for support or the natural, legal, or adoptive parents who are responsible for the support of ~~such~~ a child or children;

11. "Obligee" or "Person entitled" means:

- a. a person to whom a support debt or support obligation is owed,
- b. the Department of Human Services or a public agency of another state that has the right to receive current or accrued support payments or that is providing support enforcement services, or
- c. a person designated in a support order or as otherwise specified by the court;

12. "Payor" means any person or entity paying monies, income, or earnings to an obligor. In the case of a self-employed person, the "payor" and "obligor" may be the same person;

13. "Support order" means an order for the payment of support issued by a district or administrative court of this state or by any court or agency of another state;

14. "Income assignment" ~~is~~ means an assignment of a portion of the monies, income, or periodic earnings due and owing to the obligor to the person entitled to the support or to another person or entity designated by the support order or assignment for payment of support, the support debt, or arrearages. In all child support ~~orders~~ cases wherein child support is being enforced pursuant to the state plan, the income of any obligor required by court or administrative order to pay support shall be subject by operation of law to immediate income assignments regardless of whether support payments by such obligor are in arrears. The assignment shall be in an amount which is sufficient to meet the ~~monthly~~ periodic child support payments, other maintenance payments, payments on support debt and ~~arrearages, or other maintenance payments imposed by the~~ collection of past due support monies that have accrued under a district or administrative court order. ~~The~~ An income assignment shall be made a part of a support order or any order granting a judgment for a support debt or ~~arrearages~~ confirming the amount of

the past due support, or a review or modification of a support order pursuant to Section 118.1 of Title 43 of the Oklahoma Statutes;

15. "Voluntary acknowledgment" means a written acknowledgment executed by the obligor wherein the obligor acknowledges paternity, support liability, a support debt, or arrearage amount, and agrees to a judgment and an immediate income assignment to pay monthly support and payments on the support debt or arrearage judgments;

16. "Notice" means a written announcement served upon an obligor, a custodial person or any person or entity which might be affected by the noticed proceeding;

17. "Licensing board" means any bureau, department, division, board, agency, or commission of this state or of a municipality in this state that issues a license;

18. "License" means a license, certificate, registration, permit, approval, or other similar document issued by a licensing board granting to an individual a right or privilege to engage in a profession, occupation, ~~or~~ business, or industry, or any recreational license or permit including, but not limited to, a hunting and fishing license or other authorization issued pursuant to the Oklahoma Wildlife Conservation Code and certificates of Title for vessels and motors and other licenses or registrations issued pursuant to the Oklahoma Vessel and Motor Registration Act or a driver license or other permit issued pursuant to Title 47 of the Oklahoma Statutes;

19. "Commission" means the Commission for Human Services;

20. "Payment plan" includes, but is not limited to, a plan approved by the support enforcement entity that provides sufficient security to ensure compliance with a support order or that incorporates voluntary or involuntary income assignment or a similar plan for periodic payment of past-due support and, if applicable, current and future support; and

21. "Support" means all payments or other obligations due and owing to the obligee or person entitled by the obligor pursuant to a support order, and may include, but is not limited to, child support, medical insurance or other health ~~care~~ benefit plan premiums, child care obligations, support alimony payments, and other obligations as specified in Section 118 of Title 43 of the Oklahoma Statutes.

SECTION 5. AMENDATORY 56 O.S. 1991, Section 238.5A, is amended to read as follows:

Section 238.5A The amount of child support and other support shall be ordered and reviewed in accordance with the child support guidelines provided in Section ~~1277.7~~ 118 of Title ~~12~~ 43 of the Oklahoma Statutes.

SECTION 6. AMENDATORY 56 O.S. 1991, Section 240.1, as last amended by Section 19, Chapter 323, O.S.L. 1998 (56 O.S. Supp. 1999, Section 240.1), is amended to read as follows:

Section 240.1 A. 1. In cases in which child support services are being provided by the Child Support Enforcement Division of the Department of Human Services, the Division may:

- a. initiate enforcement proceedings to:
 - (1) obtain a judgment for arrearages,
 - (2) effectuate an income assignment,
 - (3) receive current support and judgment payments,
and
 - (4) review and modify support orders pursuant to child support guidelines in Section 118 of Title 43 of the Oklahoma Statutes, and
- b. initiate any other legal proceeding to implement the establishment and collection of support and other court-ordered requirements of support from an obligor including, but not limited to, medical expenses, insurance premiums, and child care costs.

2. ~~A reasonable fee and costs may be assessed for providing child support enforcement services pursuant to rules promulgated by the Department. The fee, not to exceed Twenty-five Dollars (\$25.00), shall be paid by the applicant and such other costs shall be in addition to the amount withheld pursuant to the income assignment.~~ In any hearing on a notice of delinquency or other enforcement proceeding, the district or administrative court may include the amount of the child support services fee paid by the applicant in any judgment against the obligor.

B. The Division is authorized to initiate enforcement proceedings and receive payments pursuant to Section 237A and 240.2 of this title to effectuate an income assignment and payment plan for:

1. Spousal support or the support of a child or both for an applicant or any person who is the recipient of Temporary Assistance for Needy Families (TANF) program; and

2. Any debt due and owing to the person entitled to receive enforcement support services by the Department or to this state by a natural or adoptive parent or other person who is or was responsible for the support of a child pursuant to Section 238 of this title, or found to be responsible for the support of a child pursuant to Sections 238.1 through 238.6 of this title.

C. ~~1.~~ Upon application by an obligor who requests support enforcement services from the Department, the Division is authorized to initiate any proceedings necessary to provide support enforcement services to the obligor and to receive payments of the support obligation or any judgment.

~~2. A reasonable fee and costs may be assessed for the services provided for in this subsection pursuant to rules promulgated by the Department. Such fee, not to exceed Twenty-five Dollars (\$25.00), shall be paid by the applicant.~~

D. The Director has the authority to enter orders in situations as defined in Section 240.23 of this title, without the necessity of obtaining an additional signature of a district or administrative judge.

E. The Division is authorized to refer any judgment for child support of more than Five Thousand Dollars (\$5,000.00) to the Secretary of Health and Human Services for denial of passport.

SECTION 7. AMENDATORY Section 4, Chapter 354, O.S.L. 1995 (56 O.S. Supp. 1999, Section 240.15), is amended to read as follows:

Section 240.15 A. 1. Except as otherwise provided by this section, the Department of Human Services is authorized to order the revocation ~~or~~, suspension, nonissuance, or nonrenewal of a license and driving privileges or placement of an obligor on probation who is not in ~~noncompliance~~ compliance with an order for support.

2. If the obligor is a licensed attorney, the Department may report the matter to the Oklahoma Bar Association for appropriate action in accordance with the rules of professional conduct.

3. Pursuant to Section ~~11~~ 6-201.1 of ~~this act~~ Title 47 of the Oklahoma Statutes, the Department of Human Services is hereby authorized to order the revocation ~~or~~, suspension, nonissuance, or nonrenewal of a driver license and driving privileges of an obligor who is in noncompliance with an order of support. In addition the Department of Human Services may, in cases of extreme and unusual hardship, provide for a modification of the revocation~~or~~, suspension, nonissuance, or nonrenewal of the driver license and driving privileges of an obligor who is in noncompliance with an order of support.

4. The remedy under this section is in addition to any other enforcement remedy available to the Department.

B. 1. Whenever the Department of Human Services determines that an obligor may be in noncompliance with an order for support,

before proceeding ~~to revoke or suspend~~ with revocation, suspension, nonissuance, or nonrenewal of a license and driving privileges of an obligor or ~~place~~ placing the obligor on probation, the Department of Human Services shall issue a notice of intent ~~to suspend or revoke~~ of revocation, suspension, nonissuance, or nonrenewal of the license and driving privileges of the obligor or ~~place~~ placing the obligor on probation.

2. The notice shall be served upon the obligor personally or by certified mail in the same manner as provided for in Section 2004 of Title 12 of the Oklahoma Statutes; or, if notice has been issued pursuant to Section 237A of this title, the notice provided in this section may be served by regular mail with a certificate of mailing by the child support representative to the address of record on file with the Centralized Support Registry.

3. The notice shall state that the obligor's license will be suspended or revoked or the obligor placed on probation ~~thirty (30)~~ twenty (20) days after service unless within that time the obligor:

- a. pays the entire past-due support as stated in the notice,
- b. enters into a payment plan approved by the Department, or
- c. appears and shows cause in a hearing before the Department that suspension or revocation of a license or probation is not appropriate~~+~~.

C. To show cause why suspension or revocation of a license or probation would not be appropriate, the obligor shall request a hearing from the Department. The request shall be made in writing within ~~thirty (30)~~ twenty (20) days of the date of service of the notice.

D. Upon receipt of a request for hearing from an obligor, the Department shall schedule a hearing for the purpose of determining

if suspension or revocation of the obligor's license or probation is appropriate.

E. The only issues that may be determined in a hearing under this section are whether or not the obligor is in noncompliance with an order for support, and whether or not the obligor has entered or will enter into a payment plan. Where a payment plan is entered into the Department may provide for probation pursuant to Section ~~5~~ 240.16 of ~~this act~~ title.

F. If an obligor fails to respond to a notice of intent to order the suspension ~~or~~, revocation, nonissuance, or nonrenewal of a license and driving privileges of the obligor or probation, fails to timely request a hearing, or fails to appear at a regularly scheduled hearing, the obligor's defenses, objections, or request for a payment plan shall be considered to be without merit, and the Department shall enter a final decision and order accordingly.

G. If the Department determines that the obligor is in noncompliance with an order for support and that the obligor has not entered into a payment plan, the Department shall issue an order ~~suspending or revoking~~ for the revocation, suspension, nonissuance, or nonrenewal of the obligor's license and driving privileges and ordering the obligor to refrain from engaging in the licensed activity or shall issue an order placing the obligor on probation. The Department shall send a copy of the order of ~~suspension or revocation, suspension, nonissuance, or nonrenewal~~ of a license and driving privileges or of probation to the licensing board and to the obligor.

H. The determinations of the Department pursuant to this section are a final agency decision and are subject to judicial review pursuant to Section 240.3 of ~~Title 56 of the Oklahoma Statutes~~ this title. Judicial review shall be confined to the record of the administrative proceedings.

I. A determination made by the Department pursuant to this section is independent of any proceeding of the licensing board to suspend, revoke, deny, terminate, or renew a license.

J. The Department has the authority to order the ~~suspension or revocation~~, suspension, nonissuance, or nonrenewal of a license and driving privileges or the placement of an obligor on probation without any action by the licensing board. The licensing board shall, upon receipt of an order issued by the Department, ~~suspend or revoke~~, suspend, or refuse to renew or reissue the license and driving privileges of the named individual or place the obligor on probation.

K. For purposes of this section and Sections ~~5~~ 240.16 through ~~11~~ 240.21 of this ~~act~~ title and Section 6-201.1 of Title 47 of the Oklahoma Statutes, the term "noncompliance with an order for support" means that the obligor has failed to make child support payments required by a child support order in an amount equal to the child support payable for at least ninety (90) days, has failed to make full payments pursuant to a court-ordered payment plan for at least ninety (90) days or has failed to obtain or maintain health insurance coverage for at least ninety (90) days as required by a support order.

SECTION 8. AMENDATORY Section 6, Chapter 354, O.S.L. 1995 (56 O.S. Supp. 1999, Section 240.17), is amended to read as follows:

Section 240.17 A. When the Department of Human Services determines that the support debt, past-due support, or support obligation is paid in full, it shall terminate the order of ~~suspension or~~, revocation, nonissuance, or nonrenewal of the license or the order of probation. The Department shall send a copy of ~~said~~ the order to the board, the obligor, and the person entitled to child support.

B. Entry of ~~such~~ an order pursuant to subsection A of this section does not limit the ability of a Department to issue a new order of suspension or revocation of the license of the same obligor or place the obligor on probation in the event of another delinquency.

SECTION 9. AMENDATORY Section 7, Chapter 354, O.S.L. 1995 (56 O.S. Supp. 1999, Section 240.18), is amended to read as follows:

Section 240.18 The Department of Human Services shall not lift the suspension ~~or~~, revocation, nonissuance, or nonrenewal of the license or probation of an obligor until the obligor files with the Department proof ~~showing that he is~~ of current in his payments as required by the Department. Before the Department may terminate probation or remove a suspension ~~or~~, revocation, nonissuance, or nonrenewal, the Department shall provide written notice by certified mail, return receipt requested, to the person entitled to child support informing ~~such~~ that person that the obligor has proven to the satisfaction of the Department that the obligor is current in ~~his~~ payments. ~~Such~~ The notice shall ~~also~~ include an opportunity for the person entitled to child support to protest ~~such~~ the termination or removal upon a claim and proof that the obligor is not current in ~~his~~ payments. A protest ~~must~~ shall be commenced within ~~thirty (30)~~ twenty (20) days of receipt of the notice.

SECTION 10. AMENDATORY Section 33, Chapter 402, O.S.L. 1997 (56 O.S. Supp. 1999, Section 240.23), is amended to read as follows:

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

1. To subpoena any financial or other information needed to establish, modify, or enforce a support order and to impose

penalties for failure to respond to ~~such a~~ subpoena; provided, that the subpoena shall comply with the provisions of Section 2204 of Title 6 of the Oklahoma Statutes;

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

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

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

(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 ~~on~~ of child support, for purposes of securing overdue support, in an amount not to exceed five percent (5%) of the total child support order. ~~Such~~ This increase may not be made more than once every twelve (12) months;

4. If an income assignment is not ordered or in place by operation of law for ~~current~~ collection of support monies, the Division is authorized to send implement income withholding by sending a notice of income assignment for ~~current~~ 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. ~~Such an~~ An objection to genetic testing shall require the putative father to complete an affidavit contesting paternity on ~~such a~~ a form ~~as~~ prescribed by the Division.

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

SECTION 11. This act shall become effective November 1, 2000.

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