

**Enrolled**  
**House Bill 2124**

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Attorney General Hardy Myers for Department of Justice)

CHAPTER .....

AN ACT

Relating to administration of child support program; amending ORS 18.790, 25.280, 25.411 and 418.135 and section 1, chapter 83, Oregon Laws 2005.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 18.790 is amended to read:

18.790. (1) Except as provided in subsection (2) of this section, the garnishor must pay a \$10 search fee at the time of delivery of any writ of garnishment on a financial institution, or at the time a notice of garnishment is delivered to the financial institution under ORS 18.854. A separate search fee must be delivered to the financial institution for each debtor if the writ is issued for more than one debtor under ORS 18.607 (5). If the search fee required by this section is not paid:

- (a) The garnishment is not effective to garnish any property of the debtor; and
- (b) The financial institution need not file a garnishee response.

(2) The search fee provided for in this section need not be paid to a financial institution if the debtor is an employee of the financial institution.

(3) Notwithstanding subsection (1) of this section, a financial institution may enter into an agreement with any state agency authorized to garnish pursuant to ORS ~~18.645~~ or 18.854 for periodic billing and payment of garnishee search fees required under this section.

(4) The right of a financial institution to receive the search fee provided for in this section does not in any way restrict or impair the right of the financial institution to charge and collect an additional garnishment processing fee from any debtor whose property the financial institution holds, or to whom the financial institution owes money. However, a financial institution may not charge or collect a garnishment processing fee in violation of ORS 652.610. If a financial institution charges a garnishment processing fee, the financial institution may collect the fee by deducting the amount of the fee from any amount that the financial institution owes to the debtor.

**SECTION 2.** Section 1, chapter 83, Oregon Laws 2005, is amended to read:

**Sec. 1.** (1) As used in this section:

- (a) "Administrator" has the meaning given that term in ORS 25.010.
- (b) "Child support judgment" has the meaning given that term in ORS 25.089.

(2) Notwithstanding the provisions of ORS 25.089, 25.091 and 416.448 to the contrary, the monetary support terms of a child support judgment originating under ORS 416.440 are terminated by the monetary support terms of a later-issued child support judgment of a court if:

- (a) The two child support judgments involve the same obligor and child and the same period;
- (b) The administrator was providing services under ORS 25.080;
- (c) The later-issued child support judgment was entered before January 1, 2004;

(d) The administrator or a court gave the later-issued child support judgment precedence over the earlier-issued child support judgment originating under ORS 416.440; and

(e) All parties had an opportunity to challenge the amount of child support ordered in the later-issued child support judgment.

(3) Notwithstanding the provisions of ORS 25.091 (11) and 416.448 (7), for purposes of reconciling any monetary support arrears or credits under the two child support judgments described in subsection (2) of this section:

(a) The monetary support terms of the child support judgment originating under ORS 416.440 are deemed terminated on the **effective date of the later-issued child support judgment** [*was entered as described in ORS 18.075*]; and

(b) Entry of the later-issued child support judgment does not affect any support payment arrearage or credit that has accrued under the earlier-issued child support judgment originating under ORS 416.440.

**SECTION 3.** ORS 25.280 is amended to read:

25.280. In any judicial or administrative proceeding for the establishment or modification of a child support obligation under ORS chapters 107, 108, 109, **110 or 416** [*and 416, and ORS chapter 110*] or ORS 419B.400, 419B.923, 419C.590 or 419C.610, the amount of support determined by the formula established [*pursuant to ORS 25.270 to 25.287, 107.105, 416.415, 416.435 and 419B.400 or 419C.590 shall be*] **under ORS 25.275 is** presumed to be the correct amount of the obligation. This [*shall be*] **is** a rebuttable presumption and a written finding or a specific finding on the record that the application of the formula would be unjust or inappropriate in a particular case [*shall be*] **is** sufficient to rebut the presumption. The following criteria shall be considered in making the finding:

- (1) Evidence of the other available resources of a parent;
- (2) The reasonable necessities of a parent;
- (3) The net income of a parent remaining after withholdings required by law or as a condition of employment;
- (4) A parent's ability to borrow;
- (5) The number and needs of other dependents of a parent;
- (6) The special hardships of a parent including, but not limited to, any medical circumstances of a parent affecting the parent's ability to pay child support;
- (7) The needs of the child;
- (8) The desirability of the custodial parent remaining in the home as a full-time parent and homemaker;
- (9) The tax consequences, if any, to both parents resulting from spousal support awarded and determination of which parent will name the child as a dependent; and
- (10) The financial advantage afforded a parent's household by the income of a spouse or another person with whom the parent lives in a relationship similar to husband and wife.

**SECTION 4.** ORS 25.411 is amended to read:

25.411. (1) The withholder shall start withholding not later than [*five days after the first payday following receipt of the order to withhold.*] **the first pay period occurring five days after the date of the order to withhold. However, if on the date the employer receives the order the employer has already calculated the payroll for that pay period and has prepared the paycheck or submitted a deposit for that payroll, the employer shall start withholding no later than the second pay period occurring after the date of the order to withhold.**

(2) Within seven business days after the date the obligor receives income, the withholder shall pay amounts withheld to the Department of Justice or to the obligee by deposit into the obligee's bank account, whichever is specified in the order to withhold. The withholder shall include, with the payment, the obligor's name and case number and the date upon which the income was withheld.

(3) When payments are made to the Department of Justice, the withholder may combine amounts withheld from different obligors' incomes in a single payment as long as such payment is accompanied by a list that separately identifies which portion of the payment is attributable to each obligor, the obligor's name and case number, if any.

(4) As used in this section, [*the term*] “business day” means a day on which the Department of Justice is open for regular business.

**SECTION 5.** ORS 418.135 is amended to read:

418.135. (1) All state, county and city agencies, officers and employees shall cooperate in the location of parents who have abandoned or deserted, or are failing to support, children receiving **or applying to receive** public assistance and shall on request supply the Department of Human Services, the Division of Child Support of the Department of Justice or the district attorney of any county in the state with all information on hand relative to the location, income and property of such parents, **including information disclosed to the Division of Child Support under ORS 314.840 (2)(j)**. The granting of aid to the applicant shall not be delayed or contingent upon receipt of the answer to such requests by the Department of Human Services, the Division of Child Support or the district attorney. The Department of Human Services shall use such information only for the purposes of administration of public assistance to such children, and the district attorney and the Division of Child Support shall use such information only for the purpose of enforcing the liability of such parents to support such children, and neither shall use the information or disclose it for any other purpose. Any person who violates this prohibition against disclosure, upon conviction, is punishable as provided in ORS 314.991 (2).

(2) The Department of Human Services shall cooperate with the Division of Child Support or the district attorney prosecuting or considering the prosecution of such parent for nonsupport and shall report to the Division of Child Support or the district attorney all information contained in the case record which concerns the question of nonsupport and the suitability of prosecution as a method of obtaining support for the child in each case.

Passed by House March 28, 2007

.....  
Chief Clerk of House

.....  
Speaker of House

Passed by Senate May 18, 2007

.....  
President of Senate

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

.....  
Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

.....  
Secretary of State