

House Bill 2553

Sponsored by Representative KRUMMEL

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Limits circumstances under which parent may be required to pay support for child in custody of state.

A BILL FOR AN ACT

Relating to child support; amending ORS 25.010, 109.015, 416.400, 419B.400, 419B.404 and 419B.408.

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

SECTION 1. ORS 419B.400 is amended to read:

419B.400. (1) The court may, after a hearing on the matter, require the parents or other person legally obligated to support [*a child alleged to be within the jurisdiction of the court under ORS 419B.100 or*] a ward to pay toward the [*child or*] ward's support such amounts at such intervals as the court may direct, even though the [*child or*] ward is over 18 years of age as long as the [*child or*] ward is a child attending school, as defined in ORS 107.108.

(2) At least 21 days before the hearing, the court shall notify the Administrator of the Division of Child Support of the Department of Justice, or the branch office providing support services to the county where the hearing will be held, of the hearing. Before the hearing the administrator shall inform the court, to the extent known:

(a) Whether there is pending in this state or any other jurisdiction any type of support proceeding involving the [*child or*] ward, including a proceeding brought under ORS 25.287, 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, 125.025, 416.400 to 416.465 or 419C.590 or ORS chapter 110; and

(b) Whether there exists in this state or any other jurisdiction a support order, as defined in ORS 110.303, involving the [*child or*] ward.

(3) The Judicial Department and the Department of Justice may enter into an agreement regarding how the courts give the notice required under subsection (2) of this section to the Department of Justice and how the Department of Justice gives the information described in subsection (2)(a) and (b) to the courts.

(4) The court, in determining the amount to be paid, shall use the scale and formula provided for in ORS 25.275 and 25.280. Unless otherwise ordered, the amounts so required to be paid shall be paid to the Department of Justice or the county clerk, whichever is appropriate, for transmission to the person, institution or agency having legal custody of the [*child or*] ward.

SECTION 2. ORS 416.400 is amended to read:

416.400. As used in ORS 416.400 to 416.465, unless the context requires otherwise:

(1) "Administrator" has the meaning given that term in ORS 25.010.

(2) "Court" means any circuit court of this state and any court in another state having juris-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 diction to determine the liability of persons for the support of another person.

2 (3) "Court order" means any judgment or order of any Oregon court that orders payment of a
 3 set or determinable amount of support money by the subject parent and does not include an order
 4 or judgment in any proceeding in which the court did not order support.

5 (4) "Department" means the Department of Justice of this state or its equivalent in any other
 6 state from which a written request for establishment or enforcement of a support obligation is re-
 7 ceived under ORS 416.415.

8 (5) "Dependent child" means any person under the age of 18 who is not otherwise emancipated,
 9 self-supporting, married or a member of the Armed Forces of the United States. "Dependent child"
 10 also means a child attending school as defined in ORS 107.108.

11 (6) "Office" means the office of the Division of Child Support or the office of the district attor-
 12 ney.

13 (7) "Parent" means the natural or adoptive father or mother of a dependent child or youth
 14 offender. "Parent" also means stepparent when the person has an obligation to support a dependent
 15 child under ORS 108.045.

16 (8) "Past support" means the amount of child support that could have been ordered and accu-
 17 mulated as arrears against a parent for the benefit of a child for any period of time during which
 18 the child was not supported by the parent and for which period no support order was in effect.

19 (9) "Public assistance" means any money payments made by the state that are paid to or for the
 20 benefit of any dependent child or youth offender, including but not limited to payments made so that
 21 food, shelter, medical care, clothing, transportation or other necessary goods, services or items may
 22 be provided, and payments made in compensation for the provision of the necessities. **"Public as-
 23 sistance" does not include money payments made by the state to or for the benefit of a de-
 24 pendent child as the result of the child's removal from the parent's home against the wishes
 25 of the parent unless:**

26 (a) **The parent has been convicted of a crime that involved the neglect or abuse of the
 27 child; or**

28 (b) **The child has been found to be within the jurisdiction of the court under ORS
 29 419B.100.**

30 (10) "Youth offender" has the meaning given that term in ORS 419A.004.

31 **SECTION 3.** ORS 419B.404 is amended to read:

32 419B.404. Any order for support entered pursuant to ORS 419B.400 for a [*child or*] ward in the
 33 care and custody of the Department of Human Services may be made contingent upon the [*child
 34 or*] ward residing in a state financed or supported residence, shelter or other facility or institution.
 35 A certificate signed by the Director of Human Services, the Administrator of the Division of Child
 36 Support or the administrator's authorized representative shall be sufficient to establish such periods
 37 of residence and to satisfy the order for periods of nonresidence.

38 **SECTION 4.** ORS 419B.408 is amended to read:

39 419B.408. (1) An order of support entered pursuant to ORS 419B.400 may be enforced by exe-
 40 cution or in the manner provided by law for the enforcement of a judgment granting an equitable
 41 remedy or by an order to withhold pursuant to ORS 25.372 to 25.427.

42 (2) No property of the [*child or*] ward's parents[, or either of them,] or other person legally obli-
 43 gated to support the [*child or*] ward is exempt from levy and sale or other process to enforce col-
 44 lection of the amounts ordered by the court to be paid toward the support of the [*child or*] ward.

45 **SECTION 5.** ORS 25.010 is amended to read:

1 25.010. As used in ORS chapters 25, 107, 109 and 416 and any other statutes providing for sup-
 2 port payments or support enforcement procedures, unless the context requires otherwise:

3 (1) "Administrator" means either the Administrator of the Division of Child Support of the De-
 4 partment of Justice or a district attorney, or the administrator's or a district attorney's authorized
 5 representative.

6 (2) "Child" has the meaning given that term in ORS 110.303.

7 (3) "Child support rights" means the right to establish or enforce an obligation imposed or
 8 imposable by law to provide support, including but not limited to medical support and an unsatisfied
 9 obligation to provide support.

10 (4) "Department" means the Department of Justice.

11 (5) "Disposable income" means that part of the income of an individual remaining after the de-
 12 duction from the income of any amounts required to be withheld by law except laws enforcing
 13 spousal or child support and any amounts withheld to pay medical or dental insurance premiums.

14 (6) "Employer" means any entity or individual who engages an individual to perform work or
 15 services for which compensation is given in periodic payments or otherwise.

16 (7) "Income" is any monetary obligation in excess of \$4.99 after the fee described in ORS 25.414
 17 (6) has been deducted that is in the possession of a third party owed to an obligor and includes but
 18 is not limited to:

19 (a) Compensation paid or payable for personal services whether denominated as wages, salary,
 20 commission, bonus or otherwise;

21 (b) Periodic payments pursuant to a pension or retirement program;

22 (c) Cash dividends arising from stocks, bonds or mutual funds;

23 (d) Interest payments;

24 (e) Periodic payments from a trust account;

25 (f) Any program or contract to provide substitute wages during times of unemployment or disa-
 26 bility;

27 (g) Any payment pursuant to ORS chapter 657; or

28 (h) Amounts payable to independent contractors.

29 (8) "Obligee" has the meaning given that term in ORS 110.303.

30 (9) "Obligor" has the meaning given that term in ORS 110.303.

31 (10) "Order to withhold" means an order or other legal process that requires a withholder to
 32 withhold support from the income of an obligor.

33 (11) "Public assistance" *[has the meaning given that term in ORS 416.400]* **means any money**
 34 **payments made by the state that are paid to or for the benefit of any dependent child or**
 35 **youth offender, including but not limited to payments made so that food, shelter, medical**
 36 **care, clothing, transportation or other necessary goods, services or items may be provided,**
 37 **and payments made in compensation for the provision of the necessities.**

38 (12) "Withholder" means any person who disburses income and includes but is not limited to an
 39 employer, conservator, trustee or insurer of the obligor.

40 **SECTION 6.** ORS 109.015 is amended to read:

41 109.015. If public assistance, **as defined in ORS 416.400**, is provided for any dependent child,
 42 the administrator, as defined in ORS 25.010, may initiate proceedings under ORS chapter 18, 107,
 43 108, 109, 110 or 125 or ORS 25.010 to 25.243, 25.378, 25.402, 416.400 to 416.465, 419B.400 or 419C.590
 44 to obtain support for the child from one or both parents or from any other person legally responsible
 45 for the support of the child, including a guardian or conservator. In any proceeding under any

1 statute cited in this section, the obligee is a party.

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