

House Bill 2272

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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**.

Requires that every child support order must include medical support clause. Provides that medical support clause may provide for different forms of medical support and may make provision of particular form of support contingent on availability of another form of support.

Provides that medical support clause must require that one or both parents provide medical support through private health care coverage if that coverage is available. Prohibits requirement of cash medical support if providing party's disposable income is less than 150 percent of federal poverty guideline amount.

A BILL FOR AN ACT

1
2 Relating to medical support; creating new provisions; and amending ORS 25.010, 25.089, 25.091,
3 25.275, 25.321, 25.323, 25.325, 107.106 and 416.448.

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

5 **SECTION 1.** ORS 25.321 is amended to read:

6 25.321. As used in ORS 25.321 to 25.343:

7 [(1) "Accessible" means that, unless otherwise provided in a support order:]

8 [(a) A health benefit plan does not have service area limitations or the health benefit plan provides
9 an option not subject to service area limitations;]

10 [(b) A health benefit plan has service area limitations and the child lives within 30 miles or 30
11 minutes of a primary care provider under the plan; or]

12 [(c) A health benefit plan is accessible as defined in rules of the Department of Justice.]

13 [(2) "Enforcing agency" means the administrator.]

14 [(3) "Enroll" means to be eligible for and covered by a health benefit plan.]

15 [(4) "Health benefit plan" means any policy or contract of insurance, indemnity, subscription or
16 membership issued by an insurer, including health care coverage provided by a public entity, and any
17 self-insured employee benefit plan that provides coverage for medical expenses.]

18 [(5)(a) "Health care coverage" means providing and paying for the medical needs of a child through
19 a health benefit plan.]

20 [(b) "Health care coverage" does not include and is a separate obligation from any monetary
21 amount of child support or spousal support ordered to be paid.]

22 [(6) "Medical support" means an amount ordered to be paid toward the cost of:]

23 [(a) Health care coverage, including premiums, provided by a public entity or by another parent
24 through employment or otherwise; and]

25 [(b) Copayments, deductibles and other medical expenses not covered by a health benefit plan.]

26 [(7) "Medical support notice" means a notice as prescribed under 42 U.S.C. 666(a)(19) or a sub-
27 stantially similar notice that is issued and forwarded by the enforcing agency to enforce health care
28 coverage provisions of a support order.]

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 [(8) “Plan administrator” means:]

2 [(a) The employer, union or other provider that offers a health benefit plan; or]

3 [(b) The person to whom, under a written agreement of the parties, the duty of plan administrator
4 is delegated by the employer, union or other provider that offers a health benefit plan.]

5 [(9) “Primary care provider” means a physician who provides primary care and is a family or
6 general practitioner, pediatrician, internist, obstetrician, or gynecologist.]

7 [(10) “Providing party” means a party to a child support order who has been ordered by the court
8 or the enforcing agency to provide health care coverage for a child or to provide such coverage when
9 it becomes available to the party.]

10 [(11) “Satisfactory health care coverage” means coverage provided under a health benefit plan that,
11 at a minimum, includes medical and hospital coverage, provides for preventive, emergency, acute and
12 chronic care and imposes reasonable deductibles and copayments.]

13 **(1) “Cash medical support” means an amount that a parent is ordered to pay to defray
14 the cost of health care coverage provided for a child by the other parent, or to defray
15 uninsured medical expenses of the child.**

16 **(2) “Child support order” means a judgment or administrative order that creates child
17 support rights and that is entered or issued under ORS 416.400 to 416.465, 419B.400 or
18 419C.590 or this chapter or ORS chapter 107, 108, 109 or 110.**

19 **(3) “Employee health benefit plan” means a health benefit plan that is available to a
20 providing party by reason of the providing party’s employment.**

21 **(4) “Enforcing agency” means the administrator.**

22 **(5) “Health benefit plan” means any policy or contract of insurance, indemnity, sub-
23 scription or membership issued by an insurer, including health care coverage provided by a
24 public body, and any self-insured employee benefit plan that provides coverage for medical
25 expenses.**

26 **(6) “Health care coverage” means providing and paying for the medical needs of a child
27 through a policy or contract of insurance, indemnity, subscription or membership issued by
28 an insurer, including medical assistance provided by a public body, and any self-insured em-
29 ployee benefit plan that provides coverage for medical expenses.**

30 **(7) “Medical support” means cash medical support and health care coverage.**

31 **(8) “Medical support clause” means a provision in a child support order that requires one
32 or both of the parents to provide medical support for the child.**

33 **(9) “Medical support notice” means a notice in the form prescribed under ORS 25.325 (5).**

34 **(10) “Plan administrator” means:**

35 **(a) The employer, union or other provider that offers a health benefit plan; or**

36 **(b) The person to whom, under a written agreement of the parties, the duty of plan ad-
37 ministrator is delegated by the employer, union or other provider that offers a health benefit
38 plan.**

39 **(11) “Private health care coverage” means all health care coverage other than medical
40 assistance provided by a public body.**

41 **(12) “Providing party” means a party to a child support order who has been ordered by
42 the court or the enforcing agency to provide medical support.**

43 **(13) “Public body” has the meaning given that term in ORS 174.109.**

44 **SECTION 2.** ORS 25.323 is amended to read:

45 25.323. [(1) Except as provided in this section, whenever a child support order is entered or modi-

1 *fied under this chapter, ORS chapter 107, 108, 109, 110 or ORS 416.400 to 416.465, 419B.400 or*
 2 *419C.590, the court or the enforcing agency shall order one or both parties to provide satisfactory*
 3 *health care coverage that is reasonable in cost and accessible to the child. An order for health care*
 4 *coverage under this subsection may include health care coverage provided by a public entity.]*

5 *[(2) In addition to ordering health care coverage under subsection (1) of this section, the court or*
 6 *enforcing agency may order one or both parties to pay medical support for the child. Medical support*
 7 *ordered under this subsection must be reasonable in cost.]*

8 *[(3) If the court or the enforcing agency finds that the parties cannot provide satisfactory health*
 9 *care coverage because satisfactory health care coverage that is reasonable in cost and accessible to the*
 10 *child is not available at the time the child support order is entered, the court or the enforcing*
 11 *agency:]*

12 *[(a) Shall order one or both parties to provide satisfactory health care coverage that is reasonable*
 13 *in cost and accessible to the child when the coverage becomes available; and]*

14 *[(b) May order that, until the court or enforcing agency determines that satisfactory health care*
 15 *coverage that is reasonable in cost and accessible to the child is available and modifies the order, one*
 16 *or both parties pay medical support that is reasonable in cost. The court or enforcing agency shall*
 17 *make written findings on whether to order the payment of medical support under this paragraph.]*

18 *[(4) The cost of any amount ordered to provide satisfactory health care coverage and medical sup-*
 19 *port under this section must be included in the child support calculation made under ORS 25.275.]*

20 *[(5) The court or enforcing agency may not order a party to pay medical support under this section*
 21 *if the party is eligible to receive medical assistance under ORS 414.032, or has a dependent child in*
 22 *the household who is eligible to receive medical assistance under ORS 414.032.]*

23 *[(6) The Department of Justice shall adopt rules for determining the reasonableness of the cost of*
 24 *satisfactory health care coverage and of medical support for the purposes of this section, and for de-*
 25 *termining how the costs of providing health care coverage and medical support affect the total support*
 26 *obligation for a child under ORS 25.275.]*

27 **(1) Every child support order must include a medical support clause.**

28 **(2) Whenever a child support order that does not include a medical support clause is**
 29 **modified the modification must include a medical support clause.**

30 **(3) A medical support clause may require that medical support be provided in more than**
 31 **one form, and may make the requirement that medical support be provided in a particular**
 32 **form contingent on the availability of another form of medical support.**

33 **(4) A medical support clause must require that one or both parents provide private health**
 34 **care coverage for a child that is appropriate and available at the time the order is entered.**
 35 **If private health care coverage for a child is not appropriate and available at the time the**
 36 **order is entered, the order must:**

37 **(a) Require that one or both parents provide private health care coverage for the child**
 38 **at any time thereafter when such coverage becomes available; and**

39 **(b) Either require the payment of cash medical support, or include findings on why cash**
 40 **medical support has not been required.**

41 **(5) For the purposes of subsection (4) of this section, private health care coverage is ap-**
 42 **propriate and available for a child if the coverage:**

43 **(a) Is accessible, as described in subsection (6) of this section;**

44 **(b) Is reasonable in cost and does not require the payment of unreasonable deductibles**
 45 **or copayments; and**

1 (c) Provides coverage, at a minimum, for medical expenses, hospital expenses, preventive
 2 care, emergency care, acute care and chronic care.

3 (6) Private health care coverage is accessible for the purposes of subsection (5)(a) of this
 4 section if:

5 (a) The coverage will be available for at least one year, based on the work history of the
 6 parent providing the coverage; and

7 (b) The coverage either does not have service area limitations or the child lives within
 8 30 miles or 30 minutes of a primary care provider who is eligible for payment under the
 9 coverage.

10 (7) A medical support clause may not order a providing party to pay cash medical support
 11 if the providing party's disposable income is less than 150 percent of the federal poverty
 12 guideline amount for a household consisting of only one person.

13 (8) Cash medical support and the cost of other medical support ordered under a medical
 14 support clause constitute a child support obligation and must be included in the child support
 15 calculation made under ORS 25.275.

16 **SECTION 3.** ORS 25.325 is amended to read:

17 25.325. *[(1) When a child support order requires a party to provide health care coverage for a child
 18 under a health benefit plan:]*

19 *[(a) The court or the enforcing agency may issue a qualified medical child support order as pro-
 20 vided in section 609 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169) directing
 21 the providing party's employer or plan administrator to enroll the providing party's child in a health
 22 benefit plan and directing the providing party's employer to withhold any required premium from the
 23 providing party's compensation.]*

24 *[(b) If support enforcement services are being provided under ORS 25.080, the enforcing agency
 25 shall, when appropriate:]*

26 *[(A) Issue a medical support notice in accordance with rules adopted by the Department of
 27 Justice.]*

28 *[(B) Issue a medical support notice to the providing party's employer within two business days of
 29 receiving information under ORS 25.790 that the employer has hired or rehired the providing party.]*

30 (1) When a child support order with a medical support clause is entered, the court or the
 31 enforcing agency may issue a qualified medical child support order as provided in section 609
 32 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169). The qualified
 33 medical child support order shall direct the providing party's employer, or the plan admin-
 34 istrator for the providing party's employee health care coverage, to enroll the providing
 35 party's child in the employee health benefit plan and direct the providing party's employer
 36 to withhold any required premium from the providing party's compensation.

37 (2) When a child support order with a medical support clause is entered and support
 38 enforcement services are being provided under ORS 25.080, the enforcing agency shall, when
 39 appropriate, issue a medical support notice to the providing party's employer within two
 40 business days after receiving information under ORS 25.790 that the employer has hired or
 41 rehired the providing party.

42 [(2)] (3) If *[an order to provide health care coverage]* a child support order with a medical
 43 support clause is in effect or is being sought:

44 (a) The providing party's employer or the plan administrator for the providing party's em-
 45 ployee health care coverage shall release to the enforcing agency, upon request, the name and

1 address of the *[insurer]* **health benefit plan that provides the coverage** and *[any]* **the plan ad-**
 2 **ministrator;** and

3 (b) The plan administrator shall release to the obligee or the enforcing agency, upon request,
 4 information about *[dependent]* health care coverage **for dependents** under the **employee** health
 5 benefit plan.

6 ~~[(3)]~~ (4) If a qualified medical child support order or a medical support notice has been served
 7 on the providing party's employer, the order or notice is binding on the employer and the plan ad-
 8 ministrator **for the providing party's employee health benefit plan** to the extent that the child
 9 is eligible to be enrolled in the health benefit plan under the applicable terms and conditions of the
 10 plan and the standard enrollment guidelines as described in ORS 743.847. Enrollment of the child
 11 shall be allowed at any time, notwithstanding any enrollment season restrictions.

12 (5) **The Department of Justice, by rule, shall prescribe the form of a medical support**
 13 **notice for the purposes of ORS 25.321 to 25.343. In prescribing the form, the department shall**
 14 **consider all relevant federal law relating to medical support notices.**

15 **SECTION 4.** ORS 25.010 is amended to read:

16 25.010. As used in ORS chapters 25, 107, 109 and 416 and any other statutes providing for sup-
 17 port payments or support enforcement procedures, unless the context requires otherwise:

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

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

22 (3) "Child support rights" means the right to establish or enforce an obligation imposed or
 23 impossible by law to provide support, including but not limited to medical support **as defined in ORS**
 24 **25.321** and an unsatisfied obligation to provide support.

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

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

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

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

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

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

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

38 (d) Interest payments;

39 (e) Periodic payments from a trust account;

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

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

43 (h) Amounts payable to independent contractors.

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

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

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

3 (11) "Public assistance" has the meaning given that term in ORS 416.400.

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

6 **SECTION 5.** ORS 25.089 is amended to read:

7 25.089. (1) As used in this section, "child support judgment" means the terms of a judgment or
 8 order of a court, or an order that has been filed under ORS 416.440, that provide for past or current
 9 [*monetary*] **child** support [*or for a health benefit plan under ORS 25.321 to 25.343 for the benefit of a*
 10 *child*], **including medical support as defined in ORS 25.321.** "Child support judgment" does not
 11 include any term of a judgment or order that deals with matters other than [*monetary support or a*
 12 *health benefit plan under ORS 25.321 to 25.343 for the benefit of a child*] **child support.**

13 (2)(a) A child support judgment originating under ORS 416.440 has all the force, effect and at-
 14 tributes of a circuit court judgment. The judgment lien created by a child support judgment origi-
 15 nating under ORS 416.440 applies to all arrearages owed under the underlying order from the date
 16 the administrator or administrative law judge entered, filed or registered the underlying order under
 17 ORS 416.400 to 416.465 or ORS chapter 110.

18 (b) Until the underlying order is filed under ORS 416.440, the order may not be enforced against
 19 and has no lien effect on real property.

20 (c) No action to enforce a child support judgment originating under ORS 416.440 may be taken
 21 while the child support judgment is stayed under ORS 416.427, except as permitted in the order
 22 granting the stay.

23 (3) In any judicial or administrative proceeding in which child support may be awarded under
 24 this chapter or ORS chapter 107, 108, 109, 110 or 416 or ORS 125.025, 419B.400 or 419C.590, if a child
 25 support judgment already exists with regard to the same obligor and child:

26 (a) A court may only enforce the existing child support judgment, modify the existing child
 27 support judgment as specifically authorized by law or set aside the existing child support judgment
 28 under subsection (6) of this section or under the provisions of ORCP 71. If the court sets aside the
 29 existing child support judgment, the court may issue a new child support judgment.

30 (b) The administrator or administrative law judge may only enforce the existing child support
 31 judgment, modify the existing child support judgment as specifically authorized by law or, with re-
 32 gard to an existing child support judgment originating under ORS 416.400, move to set aside the
 33 existing child support judgment under subsection (6) of this section or for the reasons set out in
 34 ORCP 71.

35 (4) If the administrator or administrative law judge finds that there exist two or more child
 36 support judgments involving the same obligor and child and the same period of time, the adminis-
 37 trator or administrative law judge shall apply the provisions of ORS 416.448.

38 (5)(a) If the court finds that there exist two or more child support judgments involving the same
 39 obligor and child and the same period of time, and each judgment was issued in this state, the court
 40 shall apply the provisions of ORS 25.091 to determine the controlling terms of the child support
 41 judgments and to issue a governing child support judgment as defined in ORS 25.091.

42 (b) If the court finds that there exist two or more child support judgments involving the same
 43 obligor and child and the same period of time, and one or more of the judgments was issued by a
 44 tribunal of another state, the court shall apply the provisions of ORS chapter 110 to determine
 45 which judgment is the controlling child support order.

1 (6) Subject to the provisions of subsection (3) of this section, a court may modify or set aside a
 2 child support judgment issued in this state when:

3 (a) The child support judgment was issued without prior notice to the issuing court, adminis-
 4 trator or administrative law judge that:

5 (A) There was pending in this state or any other jurisdiction any type of support proceeding
 6 involving the child; or

7 (B) There existed in this state or any other jurisdiction another child support judgment involv-
 8 ing the child; or

9 (b) The child support judgment was issued after another child support judgment, and the later
 10 judgment did not enforce, modify or set aside the earlier judgment in accordance with this section.

11 (7) When modifying a child support judgment, the court, administrator or administrative law
 12 judge shall specify in the modification judgment the effects of the modification on the child support
 13 judgment being modified.

14 **SECTION 6.** ORS 25.091 is amended to read:

15 25.091. (1) As used in this section:

16 (a) "Child support judgment" has the meaning given that term in ORS 25.089.

17 (b) "Governing child support judgment" means a child support judgment issued in this state that
 18 addresses *[both monetary]* **child support** *[and a health benefit plan under ORS 25.321 to 25.343]*, **in-**
 19 **cluding medical support as defined in ORS 25.321**, and is entitled to exclusive prospective
 20 enforcement or modification with respect to any earlier child support judgment issued in this state.

21 (2) Notwithstanding any other provision of this section or ORS 25.089, when two or more child
 22 support judgments exist involving the same obligor and child and one or more of the judgments was
 23 issued by a tribunal of another state, the court shall apply the provisions of ORS chapter 110 before
 24 enforcing or modifying a judgment under this section or ORS 25.089.

25 (3) When two or more child support judgments exist involving the same obligor and child and
 26 the same period, any party to one or more of the child support judgments or the administrator, un-
 27 der ORS 416.448, may file a petition with the court for a governing child support judgment under
 28 this section. When a matter involving a child is before the court and the court finds that two or
 29 more child support judgments exist involving the same obligor and child and the same period, the
 30 court on its own motion, and after notice to all affected parties, may determine the controlling terms
 31 of the child support judgments and issue a governing child support judgment under this section.

32 (4)(a) **Except as provided in paragraph (b) of this subsection**, when two or more child sup-
 33 port judgments exist involving the same obligor and child and the same period, and each judgment
 34 was issued in this state, there is a presumption that the terms of the last-issued child support judg-
 35 ment are the controlling terms and terminate contrary terms of each earlier-issued child support
 36 judgment, *except that*].

37 *[(a) When the last-issued child support judgment is silent about monetary support for the benefit*
 38 *of the child, the monetary support terms of an earlier-issued child support judgment continue; and]*

39 *[(b) When the last-issued child support judgment is silent about a health benefit plan under ORS*
 40 *25.321 to 25.343 for the benefit of a child, the health benefit plan terms of an earlier-issued child sup-*
 41 *port judgment continue.]*

42 **(b) If the earlier-issued child support judgment requires provision of a specific type of**
 43 **child support and the last-issued child support judgment is silent with respect to that type**
 44 **of child support, the requirement of the earlier-issued child support judgment continues in**
 45 **effect.**

1 (5) A party may rebut the presumption in subsection (4) of this section by showing that:

2 (a) The last-issued child support judgment should be set aside under the provisions of ORCP 71;

3 (b) The last-issued child support judgment was issued without prior notice to the issuing court,
4 administrator or administrative law judge that:

5 (A) There was pending in this state or any other jurisdiction any type of support proceeding
6 involving the child; or

7 (B) There existed in this state or any other jurisdiction another child support judgment involv-
8 ing the child; or

9 (c) The last-issued child support judgment was issued after an earlier child support judgment and
10 did not enforce, modify or set aside the earlier child support judgment in accordance with ORS
11 25.089.

12 (6) When a court finds that two or more child support judgments exist involving the same
13 obligor and child and the same period, and each child support judgment was issued in this state, the
14 court shall set the matter for hearing to determine the controlling terms of the child support judg-
15 ments. When the child support judgments were issued in different counties of this state, the court
16 may cause the records from the original proceedings to be transmitted to the court in accordance
17 with ORS 25.100.

18 (7) Following a review of each child support judgment and any other evidence admitted by the
19 court:

20 (a) The court shall apply the presumption in subsection (4) of this section, unless the
21 presumption is rebutted, and shall determine the controlling terms of the child support judgments;
22 and

23 (b) Notwithstanding ORS 25.089 (3), the court shall issue a governing child support judgment
24 addressing [*both monetary*] **child support** [*and a health benefit plan under ORS 25.321 to 25.343*], **in-**
25 **cluding medical support as defined in ORS 25.321**, for the benefit of the child.

26 (8) The governing child support judgment must include:

27 (a) A reference to each child support judgment considered and a copy of the judgment;

28 (b) A determination of which terms regarding [*monetary support and a health benefit plan under*
29 *ORS 25.321 to 25.343*] **child support, including medical support as defined in ORS 25.321**, are
30 controlling and which child support judgment or judgments contain those terms;

31 (c) An affirmation, termination or modification of the terms regarding [*monetary support and a*
32 *health benefit plan under ORS 25.321 to 25.343*] **child support, including medical support as de-**
33 **fin****ed in ORS 25.321**, in each of the child support judgments;

34 (d) Except as provided in subsection (9) of this section, a reconciliation of any [*monetary*] **child**
35 **support** arrears or credits under all of the child support judgments; and

36 (e) The effective date of each controlling term and the termination date of each noncontrolling
37 term in each of the child support judgments. In determining these dates, the court may apply the
38 following:

39 (A) A controlling term is effective on the date specified in the child support judgment containing
40 that term or, if no date is specified, on the date the child support judgment was entered as described
41 in ORS 18.075.

42 (B) A noncontrolling term is terminated on the date the governing child support judgment is
43 entered as described in ORS 18.075.

44 (9) The court may order the parties, in a separate proceeding under ORS 25.167 or 416.429, to
45 reconcile any [*monetary*] **child** support arrears or credits under all of the child support judgments.

1 (10) When the governing child support judgment is entered as described in ORS 18.075, the
 2 noncontrolling terms of each earlier child support judgment [*regarding monetary support or a health*
 3 *benefit plan under ORS 25.321 to 25.343*] are terminated. However, subject to subsection (11) of this
 4 section, the entry of the governing child support judgment does not affect any **child** support payment
 5 arrearage or any liability related to [*health benefit plan coverage*] **medical support, as defined in**
 6 **ORS 25.321**, that has accrued under a child support judgment before the governing child support
 7 judgment is entered.

8 (11) For purposes of reconciling any [*monetary*] **child** support arrears or credits under all of the
 9 child support judgments, amounts collected and credited for a particular period under one child
 10 support judgment must be credited against the amounts accruing or accrued for the same period
 11 under any other child support judgment.

12 (12) Not sooner than 30 days and not later than 60 days after entry of the governing child sup-
 13 port judgment, a party named by the court, or the petitioner if the court names no other party, shall
 14 file a certified copy of the governing child support judgment with each court or the administrator
 15 that issued an earlier child support judgment. A party who fails to file a certified copy of the gov-
 16 erning child support judgment as required by this subsection is subject to monetary sanctions, in-
 17 cluding but not limited to attorney fees, costs and disbursements. A failure to file does not affect
 18 the validity or enforceability of the governing child support judgment.

19 (13) This section applies to any judicial proceeding in which child support may be awarded or
 20 modified under this chapter or ORS chapter 107, 108, 109 or 416 or ORS 125.025, 419B.400, 419B.923,
 21 419C.590 or 419C.610.

22 **SECTION 7.** ORS 25.275 is amended to read:

23 25.275. (1) The Division of Child Support of the Department of Justice shall establish by rule a
 24 formula for determining child support awards in any judicial or administrative proceeding. In es-
 25 tablishing the formula, the division shall take into consideration the following criteria:

- 26 (a) All earnings, income and resources of each parent, including real and personal property;
- 27 (b) The earnings history and potential of each parent;
- 28 (c) The reasonable necessities of each parent;
- 29 (d) The ability of each parent to borrow;
- 30 (e) The educational, physical and emotional needs of the child for whom the support is sought;
- 31 (f) The amount of assistance that would be paid to the child under the full standard of need of
 32 the state's IV-A plan;
- 33 (g) Preexisting support orders and current dependents; and
- 34 (h) Other reasonable criteria that the division may find to be appropriate.

35 (2) The formula described in subsection (1) of this section must also comply with the following
 36 standards:

37 (a) The child is entitled to benefit from the income of both parents to the same extent that the
 38 child would have benefited had the family unit remained intact or if there had been an intact family
 39 unit consisting of both parents and the child.

40 (b) Both parents should share in the costs of supporting the child in the same proportion as each
 41 parent's income bears to the combined income of both parents.

42 (3) The formula described in subsection (1) of this section must be designed to ensure, as a
 43 minimum, that the child for whom support is sought benefits from the income and resources of the
 44 absent parent on an equitable basis in comparison with any other minor children of the absent
 45 parent.

1 (4) The child support obligation to be paid by the obligor and determined under the formula
2 described in subsection (1) of this section:

3 (a) May be reduced or increased in consideration of [*the costs of a health benefit plan incurred*
4 *by the obligor or obligee*] **medical support**, as provided in ORS 25.321 to 25.343.

5 (b) May be reduced dollar for dollar in consideration of any Social Security or apportioned
6 Veterans' benefits paid to the child, or to a representative payee administering the funds for the
7 child's use and benefit, as a result of the obligor's disability or retirement.

8 (c) Shall be reduced dollar for dollar in consideration of any Survivors' and Dependents' Edu-
9 cational Assistance under 38 U.S.C. chapter 35 paid to the child, or to a representative payee ad-
10 ministering the funds for the child's use and benefit, as a result of the obligor's disability or
11 retirement.

12 **SECTION 8.** ORS 107.106 is amended to read:

13 107.106. (1) An order or judgment providing for the custody, parenting time, visitation or support
14 of a child under ORS chapter 25, 107, 108, 109 or 110 or ORS 419B.400 or 419C.590 shall include:

15 (a) Provisions addressing the issues of:

16 (A) Payment of uninsured medical expenses of the child;

17 (B) Maintenance of insurance or other security for support; and

18 (C) [*Maintenance of a health benefit plan*] **Medical support** for the child under ORS 25.321 to
19 25.343.

20 (b) A statement in substantially the following form:

21 _____
22
23 The terms of child support and parenting time (visitation) are designed for the child's benefit
24 and not the parents' benefit. You must pay support even if you are not receiving visitation. You
25 must comply with visitation orders even if you are not receiving child support.

26 Violation of child support orders and visitation orders is punishable by fine, imprisonment or
27 other penalties.

28 Publicly funded help is available to establish, enforce and modify child support orders. Paternity
29 establishment services are also available. Contact your local district attorney or the Department of
30 Justice at (503) 373-7300 for information.

31 Publicly funded help may be available to establish, enforce and modify visitation orders. Forms
32 are available to enforce visitation orders. Contact the domestic relations court clerk or civil court
33 clerk for information.
34 _____

35
36 (2) The court or administrative law judge shall ensure the creation and filing of an order or
37 judgment that complies with this section.

38 (3) This section does not apply to an action undertaken by the Division of Child Support of the
39 Department of Justice or a district attorney under ORS 25.080.

40 **SECTION 9.** ORS 416.448 is amended to read:

41 416.448. (1) As used in this section:

42 (a) "Child support judgment" has the meaning given that term in ORS 25.089.

43 (b) "Governing child support judgment" has the meaning given that term in ORS 25.091.

44 (2) Notwithstanding any other provision of this section or ORS 25.089, when two or more child
45 support judgments exist involving the same obligor and child, and when one or more of the judg-

1 ments was issued by a tribunal of another state, the administrator shall apply the provisions of ORS
2 chapter 110 before enforcing or modifying a child support judgment under this section or ORS
3 25.089.

4 (3) When the administrator finds that two or more child support judgments exist involving the
5 same obligor and child and the same period, and each child support judgment was issued in this
6 state:

7 (a) The administrator may petition the court for the county where a child who is subject to the
8 judgments resides for a governing child support judgment under ORS 25.091; or

9 (b) The administrator may apply the presumption described in ORS 25.091, determine the con-
10 trolling terms of the child support judgments and issue a proposed governing child support order
11 and notice to the parties in the manner prescribed by rules adopted by the Department of Justice
12 under ORS 416.455. The proposed governing child support order must include all of the information
13 described in ORS 25.091 (8). The administrator shall serve the proposed governing child support or-
14 der and notice in the manner provided in ORS 416.425. The notice must include a statement that the
15 proposed governing child support order shall become final unless a written objection is made to the
16 administrator within 60 days after service of the proposed governing child support order and notice.

17 (4) If the administrator receives a timely written objection to a proposed governing child support
18 order issued under subsection (3)(b) of this section, the administrator shall certify the matter to the
19 court for the county where a child who is subject to the judgments resides for a governing child
20 support judgment under ORS 25.091.

21 (5) If the administrator does not receive a timely written objection to a proposed governing child
22 support order issued under subsection (3)(b) of this section, the governing child support order is
23 final. The administrator shall certify the governing child support order to a court for review and
24 approval under ORS 416.425 (10). The governing child support order is not effective until reviewed
25 and approved by the court. If the court approves the governing child support order, the governing
26 child support order becomes the governing child support judgment upon filing as provided in ORS
27 416.440.

28 (6) When a governing child support judgment is entered as described in ORS 416.440, the non-
29 controlling terms of each earlier child support judgment [*regarding monetary support or a health*
30 *benefit plan under ORS 25.321 to 25.343*] are terminated. However, subject to subsection (7) of this
31 section, the entry of a governing child support judgment does not affect any support payment
32 arrearage or any liability related to [*health benefit plan coverage*] **medical support, as defined in**
33 **ORS 25.321**, that has accrued under a child support judgment before the governing child support
34 judgment is entered.

35 (7) For purposes of reconciling any [*monetary*] **child** support arrears or credits under all of the
36 child support judgments, amounts collected and credited for a particular period under one child
37 support judgment must be credited against the amounts accruing or accrued for the same period
38 under any other child support judgment.

39 (8) Not sooner than 30 days and not later than 60 days after entry of the governing child support
40 judgment, the administrator shall file a certified copy of the governing child support judgment with
41 each court that issued an earlier child support judgment. A failure to file does not affect the validity
42 or enforceability of the governing child support judgment.

43 (9) When an administrative law judge finds that two or more child support judgments exist in-
44 volving the same obligor and child and the same period, and each child support judgment was issued
45 in this state, the administrative law judge shall remand the matter to the administrator to follow the

1 provisions of subsection (3) of this section.

2 **SECTION 10. Section 11 of this 2009 Act is added to and made a part of ORS 25.321 to**
3 **25.343.**

4 **SECTION 11. The Department of Justice may adopt all rules necessary for implementa-**
5 **tion of ORS 25.321 to 25.343.**

6
