

Enrolled
House Bill 2274

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 referral of support obligations to Department of Revenue; amending ORS 25.610.

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

SECTION 1. ORS 25.610 is amended to read:

25.610. (1) Whenever support enforcement services are being provided [*and those services are funded in part through Title IV-D of the Social Security Act (42 U.S.C. 651, et seq.)*], the administrator may request the Department of Revenue, through the Department of Justice or its designee, to collect past due child and spousal support from income tax refunds due to the obligor. The request shall be based upon the payment record maintained under ORS 25.020.

(2) If support payment records have not been maintained as provided in ORS 25.020, then a support payment record may be established under ORS 25.164, 25.167 and 416.429.

(3) The Department of Justice shall adopt rules:

- (a) Setting out additional criteria for requests under subsection (1) of this section; and
- (b) Directing how any support obligation collected by the Department of Revenue shall be distributed, consistent with federal regulations.

(4) Before a request is made to the Department of Revenue under subsection (1) of this section, the Department of Justice shall provide advance written notice to the obligor and the obligee of its intent to refer the case to the Department of Revenue. The notice shall inform the parties:

- (a) Of the proposed action;
- (b) Of the obligor's right to request an administrative review of the proposed action;
- (c) That an administrative review, if desired, must be requested by the obligor within 30 days after the date of the notice; and
- (d) That the only issues that may be considered in the administrative review are:
 - (A) Whether the obligor is the person who owes the support obligation; and
 - (B) Whether the amount shown as the past due support is correct.

(5) An administrative review must be requested within 30 days after the date of the notice described in subsection (4) of this section. At the administrative review, an issue may not be considered if it was previously litigated or if the obligor failed to exercise rights to appear and be heard or to appeal a decision that resulted in the accrual of the arrearage being used as a basis for a request under subsection (1) of this section. A party may appeal a decision from the administrative review under ORS 183.484.

(6) When the Department of Revenue has been requested to collect past due child and spousal support from income tax refunds due to the obligor, the Department of Revenue may not allow the obligor to apply any income tax refund to future taxes of the obligor.

(7) Notwithstanding any other provision of this section, an obligor who is not delinquent in payment of child or spousal support may authorize the Department of Revenue, through the Department of Justice or its designee, to withhold any income tax refund owing to that obligor for the purpose of applying the moneys as a credit to the support account maintained by the Department of Justice.

Passed by House February 19, 2009

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Chief Clerk of House

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Speaker of House

Passed by Senate May 19, 2009

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President of Senate

Received by Governor:

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Approved:

.....M,....., 2009

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Governor

Filed in Office of Secretary of State:

.....M,....., 2009

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Secretary of State