

B-Engrossed
House Bill 2275

Ordered by the Senate April 16
Including House Amendments dated February 17 and Senate Amendments
dated April 16

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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.

Clarifies that parent who is eligible for and receiving payments under Title IV-A of Social Security Act is rebuttably presumed to be unable to pay child support.

Provides alternative procedure for contesting validity and enforcement of support order issued by another state.

Provides that district attorneys may request certain financial records for purpose of collecting past due support.

Allows Administrator of Division of Child Support of Department of Justice to suspend order or judgment for child support during period of significant unemployment when party to order experiences employment-related change of income. Creates procedures for suspension.

Makes other changes to laws relating to support enforcement.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to child support; creating new provisions; amending ORS 25.245, 25.405, 25.643, 25.646,
3 107.135, 412.024, 416.415 and 416.425; and declaring an emergency.

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

5 **SECTION 1.** ORS 25.245 is amended to read:

6 25.245. (1) Notwithstanding any other provision of Oregon law, a parent who is eligible for and
7 receiving cash payments under ORS 412.001 to 412.069 and 418.647, **Title IV-A of the Social Se-**
8 **curity Act**, the general assistance program as provided in ORS chapter 411 or a general assistance
9 program of another state or tribe, the Oregon Supplemental Income Program or the federal Supple-
10 mental Security Income Program shall be rebuttably presumed unable to pay child support and a
11 child support obligation does not accrue unless the presumption is rebutted.

12 (2) Each month, the Department of Human Services shall identify those persons receiving cash
13 payments under the programs listed in subsection (1) of this section that are administered by the
14 State of Oregon and provide that information to the administrator. If benefits are received from
15 programs listed in subsection (1) of this section that are administered by other states, tribes or
16 federal agencies, the obligor shall provide the administrator with written documentation of the
17 benefits. The Department of Human Services shall adopt rules to implement this subsection.

18 (3) The administrator shall refer to the information provided in subsection (2) of this section
19 prior to establishing any child support obligation. Within 30 days following identification of persons
20 under subsection (2) of this section, the entity responsible for support enforcement services under
21 ORS 25.080 shall provide notice of the presumption to the obligee and obligor and shall inform all

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 parties to the support order that, unless a party objects as provided in subsection (4) of this section,
2 child support shall cease accruing beginning with the support payment due on or after the date the
3 obligor first begins receiving the cash payments and continuing through the support payment due
4 in the last month in which the obligor received the cash payments. The entity responsible for sup-
5 port enforcement services shall serve the notice on the obligee in the manner provided for the ser-
6 vice of summons in a civil action or by certified mail, return receipt requested, and shall serve the
7 notice on the obligor by first class mail to the obligor's last-known address. The notice shall specify
8 the month in which cash payments are first made and shall contain a statement that the adminis-
9 trator represents the state and that low cost legal counsel may be available.

10 (4) A party may object to the presumption by sending an objection to the entity responsible for
11 support enforcement services under ORS 25.080 within 20 days after the date of service of the no-
12 tice. The objection must describe the resources of the obligor or other evidence that might rebut the
13 presumption of inability to pay child support. The entity receiving the objection shall cause the case
14 to be set for a hearing before a court or an administrative law judge. The court or administrative
15 law judge may consider only whether the presumption has been rebutted.

16 (5) If no objection is made, or if the court or administrative law judge finds that the presumption
17 has not been rebutted, the Department of Justice shall discontinue billing the obligor for the period
18 of time described in subsection (3) of this section and no arrearage shall accrue for the period dur-
19 ing which the obligor is not billed. In addition, the entity providing support enforcement services
20 shall file with the circuit court in which the support order or judgment has been entered a copy of
21 the notice described in subsection (3) of this section or, if an objection is made and the presumption
22 is not rebutted, a copy of the administrative law judge's order.

23 (6)(a) Within 30 days after the date the obligor ceases receiving cash payments under a program
24 listed in subsection (1) of this section, the Department of Justice shall provide notice to all parties
25 to the support order:

26 (A) Specifying the last month in which a cash payment was made;

27 (B) Stating that the payment of those benefits has terminated and that by operation of law bill-
28 ing and accrual of support resumes; and

29 (C) Informing the parties of their rights to request a review and modification of the support
30 order based on a substantial change in circumstance or pursuant to ORS 25.287 or any other pro-
31 vision of law.

32 (b) The notice shall include a statement that the administrator represents the state and that low
33 cost legal counsel may be available.

34 (c) The entity providing enforcement services shall file a copy of the notice required by para-
35 graph (a) of this subsection with the circuit court in which the support order or judgment has been
36 entered.

37 (7) Receipt by a child support obligor of cash payments under any of the programs listed in
38 subsection (1) of this section shall be sufficient cause for a court or administrative law judge to al-
39 low a credit and satisfaction against child support arrearage for months that the obligor received
40 the cash payments.

41 (8) The notice and finding of financial responsibility required by ORS 416.415 shall include no-
42 tice of the presumption, nonaccrual and arrearage credit rights provided for in this section.

43 (9) The presumption, nonaccrual and arrearage credit rights created by this section shall apply
44 whether or not child support enforcement services are being provided under Title IV-D of the Social
45 Security Act.

1 (10) Application of the presumption, nonaccrual and arrearage credit rights created by this
2 section does not constitute a modification but does not limit the right of any party to seek a mod-
3 ification of a support order based upon a change of circumstances or pursuant to ORS 25.287 or any
4 other provision of law. In determining whether a change in circumstances has occurred or whether
5 three years have elapsed, or such shorter cycle as determined by rule of the Department of Justice,
6 since entry of a support order, the court or administrative law judge may not consider any action
7 taken under this section as entry of a support order. The presumption stated in subsection (1) of this
8 section applies in any modification proceeding.

9 **SECTION 2.** ORS 25.405 is amended to read:

10 25.405. (1) An obligor contesting an order to withhold issued under ORS 25.378 must do so within
11 14 days from the date income is first withheld pursuant to the order to withhold. The obligor may
12 not contest an order to withhold issued under ORS 25.378 (5).

13 (2) The only basis for contesting the order to withhold is a mistake of fact. "Mistake of fact"
14 means an error in the amount of current support or arrearages, or an error in the identity of the
15 obligor. Payment of all arrearages shall not be the sole basis for not implementing withholding.

16 (3) If the order to withhold was issued by a court of this state, the obligor must contest the
17 order to withhold in the court that issued the order.

18 (4) If the order to withhold was issued by a court or administrative agency of another state and
19 was received directly by an employer in this state under ORS 110.394, the obligor may contest the
20 order to withhold by:

21 (a) Seeking relief from enforcement of the order in the appropriate tribunal of the state that
22 issued the order;

23 **(b) Contesting the validity and enforcement of the order under ORS 110.401; or**

24 **[(b)] (c) Registering the underlying withholding order in Oregon in the manner provided by**
25 **ORS 110.405 and seeking relief from enforcement of the order [in an Oregon circuit court] as pro-**
26 **vided in ORS 110.417 and 110.420.**

27 (5) If the order to withhold was issued pursuant to a request for enforcement under ORS 25.080,
28 the obligor may contest the order to withhold to the district attorney or the Division of Child Sup-
29 port. The district attorney or the Division of Child Support need not provide an opportunity for a
30 contested case administrative hearing under ORS chapter 183 or a hearing in circuit court. Within
31 45 days after the date income is first withheld pursuant to the order to withhold, the district at-
32 torney or the Division of Child Support shall determine, based on an evaluation of the facts, if the
33 withholding shall continue and notify the obligor of the determination and of the obligor's right to
34 appeal the determination.

35 (6) Any appeal of the decision of the district attorney or the Division of Child Support made
36 under subsection (5) of this section is to the circuit court for a hearing under ORS 183.484.

37 (7) The initiation of proceedings to contest an order to withhold under subsection (4) of this
38 section, a motion or request to contest an order to withhold or an appeal of the decision of the
39 district attorney or the Division of Child Support made under subsection (5) of this section does not
40 act to stay withholding unless otherwise ordered by a court.

41 **SECTION 3.** ORS 25.643 is amended to read:

42 25.643. (1) The Department of Justice and financial institutions doing business in this state shall
43 enter into agreements to develop and operate a data match system using automated data exchanges
44 to the maximum extent feasible.

45 (2) Pursuant to the agreements, financial institutions shall provide, for each calendar quarter,

1 the name, address, Social Security number or other taxpayer identification number and other iden-
2 tifying information for each obligor who:

3 (a) Maintains an account at the institution; and

4 (b) Owes past due support, as identified by the [department] **administrator** by name and Social
5 Security number or other taxpayer identification number.

6 (3) The [department] **administrator** shall pay a reasonable fee to a financial institution for
7 conducting the data match provided for in this section. The fee may not exceed the actual costs
8 incurred by the financial institution.

9 (4) A financial institution, including an institution-affiliated party as defined in section 3(u) of
10 the Federal Deposit Insurance Act (12 U.S.C. 1813(u)), is not liable under any state law to any per-
11 son:

12 (a) For any disclosure of information to the [department] **administrator** under this section;

13 (b) For encumbering or surrendering any assets held by the financial institution in response to
14 a notice of lien or levy issued by the [department] **administrator**; or

15 (c) For any other action taken in good faith to comply with the requirements of this section.

16 **SECTION 4.** ORS 25.646 is amended to read:

17 25.646. (1) Upon request of the [Department of Justice] **administrator** and the receipt of the
18 certification required under subsection (2) of this section, a financial institution shall provide fi-
19 nancial records of a customer.

20 (2) In requesting information under subsection (1) of this section, the [department] **administra-**
21 **tor** shall provide the name and Social Security number of the person whose financial records are
22 sought and shall state with reasonable specificity the financial records requested. The [department]
23 **administrator** shall [certify] **provide** to the financial institution [*in writing, signed by an agent of*
24 *the department*] **a signed document in a form established by the Department of Justice certi-**
25 **fying that:**

26 (a) [*That*] The person whose financial records are sought is a party to a proceeding to establish,
27 modify or enforce the child support obligation of the person; and

28 (b) [*That*] The [department] **administrator** has authorization from the person for release of the
29 financial records, has given the person written notice of its request for financial records or will give
30 the notice within five days after the financial institution responds to the request.

31 (3) The [department] **administrator** shall reimburse a financial institution supplying financial
32 records under this section for actual costs incurred.

33 (4) A financial institution, including an institution-affiliated party as defined in section 3(u) of
34 the Federal Deposit Insurance Act (12 U.S.C. 1813(u)), that supplies financial records to the [de-
35 partment] **administrator** under this section is not liable to any person for any loss, damage or injury
36 arising out of or in any way pertaining to the disclosure of the financial records.

37 (5) A financial institution that is requested to supply financial records under this section may
38 enter into an agreement with the [department] **administrator** concerning the method by which re-
39 quests for financial records and responses from the financial institution shall be made.

40 (6) The [department] **administrator** shall provide a reasonable time to the financial institution
41 for responding to a request for financial records.

42 (7) The [department] **administrator** shall seek financial records under this section only:

43 (a) With respect to a person who is a party to a proceeding to establish, modify or enforce the
44 child support obligation of the person; or

45 (b) According to the provisions of ORS 25.083.

1 **SECTION 5.** ORS 107.135 is amended to read:

2 107.135. (1) The court may at any time after a judgment of annulment or dissolution of marriage
3 or of separation is granted, upon the motion of either party and after service of notice on the other
4 party in the manner provided by ORCP 7, and after notice to the Division of Child Support when
5 required under subsection (9) of this section:

6 (a) Set aside, alter or modify any portion of the judgment that provides for the appointment and
7 duties of trustees, for the custody, parenting time, visitation, support and welfare of the minor
8 children and the children attending school, as defined in ORS 107.108, including any health or life
9 insurance provisions, for the support of a party or for life insurance under ORS 107.820 or 107.830;

10 (b) Make an order, after service of notice to the other party, providing for the future custody,
11 support and welfare of minor children residing in the state, who, at the time the judgment was given,
12 were not residents of the state, or were unknown to the court or were erroneously omitted from the
13 judgment;

14 (c) Terminate a duty of support toward any minor child who has become self-supporting,
15 emancipated or married;

16 (d) After service of notice on the child in the manner provided by law for service of a summons,
17 suspend future support for any child who has ceased to be a child attending school as defined in
18 ORS 107.108; and

19 (e) Set aside, alter or modify any portion of the judgment that provides for a property award
20 based on the enhanced earning capacity of a party that was awarded before October 23, 1999. A
21 property award may be set aside, altered or modified under this paragraph:

22 (A) When the person with the enhanced earning capacity makes a good faith career change that
23 results in less income;

24 (B) When the income of the person with the enhanced earning capacity decreases due to cir-
25 cumstances beyond the person's control; or

26 (C) Under such other circumstances as the court deems just and proper.

27 (2) When a party moves to set aside, alter or modify the child support provisions of the judg-
28 ment:

29 (a) The party shall state in the motion, to the extent known:

30 (A) Whether there is pending in this state or any other jurisdiction any type of support pro-
31 ceeding involving children of the marriage, including one brought under ORS 25.287, 107.431,
32 109.100, 125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

33 (B) Whether there exists in this state or any other jurisdiction a support order, as defined in
34 ORS 110.303, involving children of the marriage, other than the judgment the party is moving to set
35 aside, alter or modify.

36 (b) The party shall include with the motion a certificate regarding any pending support pro-
37 ceeding and any existing support order other than the judgment the party is moving to set aside,
38 alter or modify. The party shall use a certificate that is in a form established by court rule and in-
39 clude information required by court rule and paragraph (a) of this subsection.

40 (3) In a proceeding under this section to reconsider the spousal or child support provisions of
41 the judgment, the following provisions apply:

42 (a) A substantial change in economic circumstances of a party, which may include, but is not
43 limited to, a substantial change in the cost of reasonable and necessary expenses to either party, is
44 sufficient for the court to reconsider its order of support, except that an order of compensatory
45 spousal support may only be modified upon a showing of an involuntary, extraordinary and unan-

1 anticipated change in circumstances that reduces the earning capacity of the paying spouse.

2 (b) If the judgment provided for a termination or reduction of spousal support at a designated
3 age in anticipation of the commencement of pension, Social Security or other entitlement payments,
4 and if the obligee is unable to obtain the anticipated entitlement payments, that inability is suffi-
5 cient change in circumstances for the court to reconsider its order of support.

6 (c) If Social Security is considered in lieu of spousal support or partial spousal support, the
7 court shall determine the amount of Social Security the party is eligible to collect. The court shall
8 take into consideration any pension, retirement or other funds available to either party to effect an
9 equitable distribution between the parties and shall also take into consideration any reduction of
10 entitlement caused by taking early retirement.

11 (4) In considering under this section whether a change in circumstances exists sufficient for the
12 court to reconsider spousal or child support provisions of a judgment, the following provisions apply:

13 (a) The court or administrator, as defined in ORS 25.010, shall consider income opportunities and
14 benefits of the respective parties from all sources, including but not limited to:

15 (A) The reasonable opportunity of each party, the obligor and obligee respectively, to acquire
16 future income and assets.

17 (B) Retirement benefits available to the obligor and to the obligee.

18 (C) Other benefits to which the obligor is entitled, such as travel benefits, recreational benefits
19 and medical benefits, contrasted with benefits to which the obligee is similarly entitled.

20 (D) Social Security benefits paid to a child, or to a representative payee administering the funds
21 for the child's use and benefit, as a result of the obligor's disability or retirement if the benefits:

22 (i) Were not previously considered in the child support order; or

23 (ii) Were considered in an action initiated before May 12, 2003.

24 (E) Apportioned Veterans' benefits or Survivors' and Dependents' Educational Assistance under
25 38 U.S.C. chapter 35 paid to a child, or to a representative payee administering the funds for the
26 child's use and benefit, as a result of the obligor's disability or retirement if the benefits:

27 (i) Were not previously considered in the child support order; or

28 (ii) Were considered in an action initiated before May 12, 2003.

29 (b) If the motion for modification is one made by the obligor to reduce or terminate support, and
30 if the obligee opposes the motion, the court shall not find a change in circumstances sufficient for
31 reconsideration of support provisions, if the motion is based upon a reduction of the obligor's fi-
32 nancial status resulting from the obligor's taking voluntary retirement, partial voluntary retirement
33 or any other voluntary reduction of income or self-imposed curtailment of earning capacity, if it is
34 shown that such action of the obligor was not taken in good faith but was for the primary purpose
35 of avoiding the support obligation. In any subsequent motion for modification, the court shall deny
36 the motion if the sole basis of the motion for modification is the termination of voluntarily taken
37 retirement benefits and the obligor previously has been found not to have acted in good faith.

38 (c) The court shall consider the following factors in deciding whether the actions of the obligor
39 were not in "good faith":

40 (A) Timing of the voluntary retirement or other reduction in financial status to coincide with
41 court action in which the obligee seeks or is granted an increase in spousal support.

42 (B) Whether all or most of the income producing assets and property were awarded to the
43 obligor, and spousal support in lieu of such property was awarded to the obligee.

44 (C) Extent of the obligor's dissipation of funds and assets prior to the voluntary retirement or
45 soon after filing for the change of circumstances based on retirement.

1 (D) If earned income is reduced and absent dissipation of funds or large gifts, whether the
2 obligor has funds and assets from which the spousal support could have been paid.

3 (E) Whether the obligor has given gifts of substantial value to others, including a current
4 spouse, to the detriment of the obligor's ability to meet the preexisting obligation of spousal support.

5 (5) Upon terminating a duty of spousal support, a court shall make specific findings of the basis
6 for the termination and shall include the findings in the judgment [*order*].

7 (6) Any modification of child or spousal support granted because of a change of circumstances
8 may be ordered effective retroactive to the date the motion for modification was served or to any
9 date thereafter.

10 (7) The judgment is final as to any installment or payment of money that has accrued up to the
11 time the nonmoving party, other than the state, is served with a motion to set aside, alter or modify
12 the judgment. The court may not set aside, alter or modify any portion of the judgment that provides
13 for any payment of money, either for minor children or for the support of a party, that has accrued
14 before the motion is served. However:

15 (a) The court may allow a credit against child support arrearages for periods of time, excluding
16 reasonable parenting time unless otherwise provided by order or judgment, during which the obligor,
17 with the knowledge and consent of the obligee or pursuant to court order, has physical custody of
18 the child; and

19 (b) The court may allow, as provided in the rules of the Child Support Program, a dollar-for-
20 dollar credit against child support arrearages for any [*lump sum*] Social Security or Veterans' ben-
21 efits paid retroactively to the child, or to a representative payee administering the funds for the
22 child's use and benefit, as a result of an obligor's disability or retirement.

23 (8) In a proceeding under subsection (1) of this section, the court may assess against either party
24 a reasonable attorney fee and costs for the benefit of the other party. If a party is found to have
25 acted in bad faith, the court shall order that party to pay a reasonable attorney fee and costs of the
26 defending party.

27 (9) Whenever a motion to establish, modify or terminate child support or satisfy or alter support
28 arrearages is filed and the child support rights of one of the parties or of a child of both of the
29 parties have been assigned to the state, a true copy of the motion shall be served by mail or per-
30 sonal delivery on the Administrator of the Division of Child Support of the Department of Justice
31 or on the branch office providing support services to the county in which the motion is filed.

32 (10)(a) Except as provided in ORS 109.701 to 109.834, the courts of Oregon, having once acquired
33 personal and subject matter jurisdiction in a domestic relations action, retain such jurisdiction re-
34 gardless of any change of domicile.

35 (b) The courts of Oregon, in a proceeding to establish, enforce or modify a child support order,
36 shall recognize the provisions of the federal Full Faith and Credit for Child Support Orders Act (28
37 U.S.C. 1738B).

38 (11) In a proceeding under this section to reconsider provisions in a judgment relating to cus-
39 tody or parenting time, the court may consider repeated and unreasonable denial of, or interference
40 with, parenting time to be a substantial change of circumstances.

41 (12) In a proceeding under this section to reconsider provisions in a judgment relating to par-
42 enting time, the court may suspend or terminate a parent's parenting time with a child if the court
43 finds that the parent has abused a controlled substance and that the parenting time is not in the
44 best interests of the child. If a court has suspended or terminated a parent's parenting time with
45 a child for reasons described in this subsection, the court may not grant the parent future parenting

1 time until the parent has shown that the reasons for the suspension or termination are resolved and
2 that reinstated parenting time is in the best interests of the child. Nothing in this subsection limits
3 the court's authority under subsection (1)(a) of this section.

4 (13) In a proceeding under this section to reconsider provisions in a judgment relating to cus-
5 tody, temporary placement of the child by the custodial parent pursuant to ORS 109.056 (3) with the
6 noncustodial parent as a result of military deployment of the custodial parent is not, by itself, a
7 change of circumstances. Any fact relating to the child and the parties occurring subsequent to the
8 last custody judgment, other than the custodial parent's temporary placement of the child pursuant
9 to ORS 109.056 (3) with the noncustodial parent, may be considered by the court when making a
10 change of circumstances determination.

11 (14) Within 30 days after service of notice under subsection (1) of this section, the party served
12 shall file a written response with the court.

13 (15)(a) It is the policy of this state:

14 (A) To encourage the settlement of cases brought under this section; and

15 (B) For courts to enforce the terms of settlements described in paragraph (b) of this subsection
16 to the fullest extent possible, except when to do so would violate the law or would clearly
17 contravene public policy.

18 (b) In a proceeding under subsection (1) of this section, the court may enforce the terms set
19 forth in a stipulated order or judgment signed by the parties, an order or judgment resulting from
20 a settlement on the record or an order or judgment incorporating a settlement agreement:

21 (A) As contract terms using contract remedies;

22 (B) By imposing any remedy available to enforce an order or judgment, including but not limited
23 to contempt; or

24 (C) By any combination of the provisions of subparagraphs (A) and (B) of this paragraph.

25 (c) A party may seek to enforce an agreement and obtain remedies described in paragraph (b)
26 of this subsection by filing a motion, serving notice on the other party in the manner provided by
27 ORCP 7 and, if a remedy under paragraph (b)(B) of this subsection is sought, complying with the
28 statutory requirements for that remedy. All claims for relief arising out of the same acts or omis-
29 sions must be joined in the same proceeding.

30 (d) Nothing in paragraph (b) or (c) of this subsection limits a party's ability, in a separate pro-
31 ceeding, to file a motion to modify an order or judgment under subsection (1) of this section or to
32 seek enforcement of an ancillary agreement to the order or judgment.

33 **SECTION 6.** ORS 416.415 is amended to read:

34 416.415. (1)(a) At any time after the state is assigned support rights, a public assistance payment
35 is made, an application for enforcement services under ORS 25.080 is made by an individual who is
36 not a recipient of public assistance or a written request for enforcement of a support obligation is
37 received from the state agency of another state responsible for administering the federal child sup-
38 port enforcement program, the administrator may, if there is no court order **or administrative**
39 **support order**, issue a notice and finding of financial responsibility. The notice shall be served upon
40 the parent in the manner prescribed for service of summons in a civil action, or by certified mail,
41 return receipt requested. Notices that involve the establishment of paternity must be served by
42 personal service. All notices may be personally served by the administrator on the premises of the
43 offices of the administrator.

44 (b) The administrator shall serve the notice and finding issued under this section upon the
45 obligee. Service shall be by regular mail.

1 (2) The administrator shall include in the notice:

2 (a) A statement of the name of the caretaker relative or agency and the name of the dependent
3 child for whom support is to be paid;

4 (b) A statement of the monthly support for which the parent shall be responsible;

5 (c) A statement of the past support for which the parent shall be responsible;

6 (d) A statement that the parent may be required to provide health care coverage for the de-
7 pendent child whenever the coverage is available to the parent at a reasonable cost;

8 (e) To the extent known, a statement of:

9 (A) Whether there is pending in this state or any other jurisdiction any type of support pro-
10 ceeding involving the dependent child, including a proceeding brought under ORS 25.287, 107.085,
11 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, 125.025, 416.425, 419B.400 or 419C.590 or ORS
12 chapter 110; and

13 (B) Whether there exists in this state or any other jurisdiction a support order, as defined in
14 ORS 110.303, involving the dependent child;

15 (f) A statement that if the parent or the obligee desires to discuss the amount of support or
16 health care coverage that the parent is required to pay or provide, the parent or the obligee may
17 contact the office that sent the notice and request a negotiation conference. If no agreement is
18 reached on the monthly support to be paid, the administrator may issue a new notice and finding
19 of financial responsibility, which may be sent to the parent and to the obligee by regular mail ad-
20 dressed to the parent's and to the obligee's last-known address, or if applicable, the parent's or the
21 obligee's attorney's last-known address;

22 (g) A statement that if the parent or the obligee objects to all or any part of the notice and
23 finding of financial responsibility, then the parent or the obligee must send to the office issuing the
24 notice, within 20 days of the date of service, a written response that sets forth any objections and
25 requests a hearing. In those cases where the administrator is seeking to establish paternity, then
26 the alleged parent and the obligee will have 30 days to respond instead of 20 days;

27 (h) A statement that if such a timely response is received by the appropriate office, either the
28 parent or the obligee or both shall have the right to a hearing; and that if no timely written re-
29 sponse is received, the administrator may enter an order in accordance with the notice and finding
30 of financial responsibility;

31 (i) A statement that as soon as the order is entered, the property of the parent is subject to
32 collection action, including but not limited to wage withholding, garnishment and liens and exe-
33 cution thereon;

34 (j) A reference to ORS 416.400 to 416.465;

35 (k) A statement that both the parent and the obligee are responsible for notifying the office of
36 any change of address or employment;

37 (L) A statement that if the parent has any questions, the parent should telephone or visit the
38 appropriate office or consult an attorney; and

39 (m) Such other information as the administrator finds appropriate.

40 (3) If the paternity of the dependent child has not been legally established, the notice and finding
41 of financial responsibility shall also include:

42 (a) An allegation that the person is the parent of the dependent child;

43 (b) The name of the child's other parent;

44 (c) The child's date of birth;

45 (d) The probable time or period of time during which conception took place; and

1 (e) A statement that if the alleged parent or the obligee does not timely send to the office is-
2 suing the notice a written response that denies paternity and requests a hearing, then the adminis-
3 trator, without further notice to the alleged parent, or to the obligee, may enter an order that
4 declares and establishes the alleged parent as the legal parent of the child.

5 (4) The statement of monthly future support required under subsection (2)(b) and the statement
6 of past support required under subsection (2)(c) of this section are to be computed as follows:

7 (a) If there is sufficient information available concerning the parent's financial and living situ-
8 ation, the formula provided for in ORS 25.275 and 25.280 shall be used; or

9 (b) If there is insufficient information available to use the formula, an allegation of ability to
10 pay shall be the basis of the statement.

11 (5) The parent or alleged parent and the obligee shall have time to request a hearing as outlined
12 in subsection (2)(g) of this section. The time limits may be extended by the administrator and are
13 nonjurisdictional.

14 (6) If a timely written response setting forth objections and requesting a hearing is received by
15 the appropriate office, a hearing shall be held under ORS 416.427.

16 (7) If no timely written response and request for hearing is received by the appropriate office,
17 the administrator may enter an order in accordance with the notice, and shall include in that order:

18 (a) If the paternity of the dependent child is established by the order, a declaration of that fact;

19 (b) The amount of monthly support to be paid, with directions on the manner of payment;

20 (c) The amount of past support to be ordered against the parent;

21 (d) Whether health care coverage is to be provided for the dependent child;

22 (e) The name of the caretaker relative or agency and the name and birthdate of the dependent
23 child for whom support is to be paid; and

24 (f) A statement that the property of the parent is subject to collection action, including but not
25 limited to wage withholding, garnishment and liens and execution thereon.

26 (8) The parent and the obligee shall be sent a copy of the order by regular mail addressed to
27 the last-known address of each of the parties or if applicable, to the last-known address of an at-
28 torney of record for a party. The order is final, and action by the administrator to enforce and col-
29 lect upon the order, including arrearages, may be taken from the date of issuance of the order.

30 (9) The provisions of ORS 107.108 apply to an order entered under this section for the support
31 of a child attending school.

32 **SECTION 7.** ORS 412.024 is amended to read:

33 412.024. (1) Aid, as defined in ORS 412.001, may not be granted to, or on behalf of, any applicant
34 or recipient and for as long as the applicant or recipient refuses to assign to the state any rights
35 to support from any other person such applicant may have personally or in behalf of any other
36 family member for whom the applicant is applying for or receiving aid[, *and that have accrued at any*
37 *time such assignment is executed*]. If aid is paid and received for the support of a child, the rights
38 to child support that any person may have for the child are deemed to have been assigned by op-
39 eration of law to the state. Notice of the assignment by operation of law shall be given to the ap-
40 plicant at the time of application for public assistance, and shall be given to any obligee who may
41 hold some interest in such support rights by depositing a notice in the United States mail, postage
42 prepaid, addressed to the last-known address of such person. Assignment of support rights to the
43 state shall be as set forth in rules adopted by the Department of Human Services and the Depart-
44 ment of Justice.

45 (2) Except as otherwise provided in this subsection, an applicant or recipient who receives aid

1 as defined in ORS 412.001 shall cooperate with the Department of Human Services and the Depart-
2 ment of Justice in establishing the paternity of the applicant's or recipient's child born out of
3 wedlock and in obtaining support or other payments or property due the applicant or child. An ap-
4 plicant or recipient is not required to cooperate if there is good cause or some other exception to
5 the cooperation requirement that takes into account the best interest of the child. The Department
6 of Human Services shall adopt rules defining good cause, other exceptions to cooperation and non-
7 cooperation by an applicant or recipient, and setting the sanction for noncooperation. The sanction
8 may include total ineligibility of the family for aid, but in no situation may the sanction be less than
9 a 25 percent reduction of the monthly grant amount. At the time an applicant applies for aid, the
10 Department of Human Services shall inform the applicant, in writing, of the requirement of and ex-
11 ceptions to cooperation and the sanctions for noncooperation, and shall inform recipients, in writing,
12 whenever eligibility for aid is redetermined.

13 (3) This section shall apply to recipients of aid under ORS 412.001 to 412.069, 412.124 and 418.647
14 only as long as the aid is funded in whole or in part with federal grants under Title IV-A of the
15 Social Security Act.

16 **SECTION 8.** ORS 416.425 is amended to read:

17 416.425. (1) Any time support enforcement services are being provided under ORS 25.080, the
18 obligor, the obligee, the party holding the support rights or the administrator may move for the
19 existing order to be modified under this section. The motion shall be in writing in a form prescribed
20 by the administrator, shall set out the reasons for modification and shall state the telephone number
21 and address of the party requesting modification.

22 (2) The moving party shall state in the motion, to the extent known:

23 (a) Whether there is pending in this state or any other jurisdiction any type of support pro-
24 ceeding involving the dependent child, including a proceeding brought under ORS 25.287, 107.085,
25 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, 125.025, 416.415, 419B.400 or 419C.590 or ORS
26 chapter 110; and

27 (b) Whether there exists in this state or any other jurisdiction a support order, as defined in
28 ORS 110.303, involving the dependent child, other than the order the party is moving to modify.

29 (3) The moving party shall include with the motion a certificate regarding any pending support
30 proceeding and any existing support order other than the order the party is moving to modify. The
31 party shall use a certificate that is in a form prescribed by the administrator and include informa-
32 tion required by the administrator and subsection (2) of this section.

33 (4) The moving party shall serve the motion upon the obligor, the obligee, the party holding the
34 support rights and the administrator, as appropriate. The nonrequesting parties must be served in
35 the same manner as provided for service of the notice and finding of financial responsibility under
36 ORS 416.415 (1)(a). Notwithstanding ORS 25.085, the requesting party must be served by first class
37 mail to the requesting party's last known address. The nonrequesting parties have 30 days to resolve
38 the matter by stipulated agreement or to serve the moving party by regular mail with a written
39 response setting forth any objections to the motion and a request for hearing. The hearing shall be
40 conducted under ORS 416.427.

41 (5) When the moving party is other than the administrator and no objections and request for
42 hearing have been served within 30 days, the moving party may submit a true copy of the motion
43 to the administrative law judge as provided in ORS 416.427, except the default may not be construed
44 to be a contested case as defined in ORS chapter 183. Upon proof of service, the administrative law
45 judge shall issue an order granting the relief sought.

1 (6) When the moving party is the administrator and no objections and request for hearing have
2 been served within 30 days, the administrator may enter an order granting the relief sought.

3 (7) A motion for modification made under this section does not stay the administrator from en-
4 forcing and collecting upon the existing order unless so ordered by the court in which the order is
5 entered.

6 (8) An administrative order filed in accordance with ORS 416.440 is a final judgment as to any
7 installment or payment of money that has accrued up to the time the nonrequesting party is served
8 with a motion to set aside, alter or modify the judgment. The administrator may not set aside, alter
9 or modify any portion of the judgment that provides for any payment of money for minor children
10 that has accrued before the motion is served. However:

11 (a) The administrator may allow a credit against child support arrearages for periods of time,
12 excluding reasonable parenting time unless otherwise provided by order or judgment, during which
13 the obligor, with the knowledge and consent of the obligee or pursuant to court order, has physical
14 custody of the child; and

15 (b) The administrator may allow a credit against child support arrearages for any Social Secu-
16 rity or veterans' benefits paid retroactively to the child, or to a representative payee administering
17 the funds for the child's use and benefit, as a result of a parent's disability or retirement.

18 (9) The party requesting modification has the burden of showing a substantial change of cir-
19 cumstances or that a modification is appropriate under the provisions of ORS 25.287.

20 (10) An administrative order modifying a court order is not effective until the administrative
21 order is reviewed and approved by the court that entered the court order. The court shall make a
22 written finding on the record that the administrative order complies with the formula established
23 by ORS chapter 25. The court may approve the administrative order at any time after the order is
24 issued. If upon review the court finds that the administrative order should not be approved, the
25 court shall set the matter for hearing de novo.

26 (11) The obligee is a party to all proceedings under this section.

27 (12) An order entered under this section that modifies a support order because of the
28 incarceration of the obligor is effective only during the period of the obligor's incarceration and for
29 60 days after the obligor's release from incarceration. The previous support order is reinstated by
30 operation of law on the 61st day after the obligor's release from incarceration. An order that mod-
31 ifies a support order because of the obligor's incarceration must contain a notice that the previous
32 order will be reinstated on the 61st day after the obligor's release from incarceration.

33 **(13)(a) Notwithstanding subsections (1) to (12) of this section, any time support enforce-**
34 **ment services are being provided under ORS 25.080, upon request of a party to a support**
35 **order or judgment or on the administrator's own motion, the administrator may move to**
36 **suspend the order or judgment and issue a temporary modification order under this sub-**
37 **section when:**

38 **(A) There is a period of significant unemployment as that term is described in paragraph**
39 **(b) of this subsection; and**

40 **(B) A party to the support order or judgment experiences an employment-related change**
41 **of income as defined by rule in ORS 416.455.**

42 **(b) Proceedings under this subsection may be initiated only when there is a period of**
43 **significant unemployment in Oregon. The Attorney General shall determine when a "period**
44 **of significant unemployment" exists in Oregon and designate the beginning and ending dates**
45 **thereof. In making the determination of when a period of significant unemployment exists**

1 in Oregon, the Attorney General may consider whether there is in effect an “extended ben-
2 efit period” as that term is defined in ORS 657.321.

3 (c) Except as otherwise provided in this subsection, the provisions of subsections (1) to
4 (12) of this section apply to a motion for an order of suspension and temporary modification
5 under this subsection.

6 (d) A party’s employment-related change of income during a period of significant unem-
7 ployment is considered a substantial change of circumstances for purposes of proceedings
8 brought under this section.

9 (e) The motion for an order of suspension and temporary modification must be in writing
10 and must include, but need not be limited to:

11 (A) The amount of the existing support order or judgment;

12 (B) The amount of the obligor’s and obligee’s income immediately preceding the party’s
13 employment-related change of income, if known;

14 (C) The reason for the party’s employment-related change of income;

15 (D) How the party’s employment-related change of income affects the party’s employ-
16 ment status, income and, if applicable, ability to pay support;

17 (E) The obligor’s and the obligee’s current sources of income, if known;

18 (F) The proposed amount of the temporary modification order;

19 (G) A statement that if a party objects to the motion for an order of suspension and
20 temporary modification, then the party may request a hearing within 14 days of service of
21 the motion as provided in paragraph (g) of this subsection;

22 (H) A statement that the preexisting support order or judgment will be reinstated as
23 provided in paragraph (h) of this subsection; and

24 (I) A statement that a party may request a renewal of the order of suspension and tem-
25 porary modification prior to its expiration as provided in paragraph (j) of this subsection.

26 (f) The administrator shall serve the motion filed under this subsection upon the parties
27 by regular first class mail, facsimile or electronic mail unless a party signs a form agreeing
28 to accept service of the motion.

29 (g) A party may request a hearing within 14 days of service of the motion. If a hearing
30 is requested, the provisions of ORS 416.427 apply. When there has been no request for hear-
31 ing, the administrator may enter an order of suspension and temporary modification under
32 this subsection. The order must be consistent with the provisions of the motion filed under
33 this subsection and be in substantial compliance with the formula established under ORS
34 25.275.

35 (h) An order of suspension and temporary modification issued under this subsection is
36 temporary and remains in effect for six months from the date the order is filed under ORS
37 416.440 or until the date specified in the notice provided under paragraph (i) of this sub-
38 section informing of the party’s reemployment, whichever is earlier, at which time the pre-
39 existing support order or judgment becomes immediately effective and payable on the first
40 day of the following month unless an order of renewal is issued under paragraph (j) of this
41 subsection.

42 (i) The administrator may issue a notice of reinstatement at any time during which an
43 order of suspension and temporary modification is in effect under this subsection when a
44 party obtains employment and receives income that is sufficient to reinstate support in an
45 amount substantially similar to the amount in the preexisting support order or judgment.

1 The notice shall be served as provided in paragraph (f) of this subsection and must state
2 that, unless a request for hearing is received within 14 days of service of the notice, the
3 administrator will enter an order terminating the order of suspension and temporary mod-
4 ification and reinstating the amount of the preexisting support order or judgment effective
5 on a date to be specified in the notice. If a hearing is requested, the provisions of ORS 416.427
6 apply. When there is no request for hearing, the administrator may enter an order termi-
7 nating the order of suspension and temporary modification and reinstating the preexisting
8 support order or judgment effective upon the date specified in the notice.

9 (j) Prior to expiration of an order of suspension and temporary modification under this
10 subsection and upon request of a party, the administrator may renew the order of suspension
11 and temporary modification for additional six-month periods or until the party obtains em-
12 ployment as described in paragraph (i) of this subsection, whichever occurs first, if the cir-
13 cumstances under which the order was originally issued continue to exist unchanged.

14 SECTION 9. The amendments to ORS 25.245, 25.405, 25.643, 25.646, 107.135, 412.024 and
15 416.415 by sections 1 to 7 of this 2009 Act become operative on January 1, 2010.

16 SECTION 10. This 2009 Act being necessary for the immediate preservation of the public
17 peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect
18 on its passage.

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