

SENATE AMENDMENTS TO A-ENGROSSED HOUSE BILL 2275

By COMMITTEE ON JUDICIARY

April 16

1 On page 1 of the printed A-engrossed bill, line 2, after “support;” delete the rest of the line and
2 insert “creating new provisions; amending ORS 25.245, 25.405, 25.643, 25.646, 107.135, 412.024, 416.415
3 and 416.425; and declaring an emergency.”.

4 On page 11, after line 10, insert:

5 “**SECTION 8.** ORS 416.425 is amended to read:

6 “416.425. (1) Any time support enforcement services are being provided under ORS 25.080, the
7 obligor, the obligee, the party holding the support rights or the administrator may move for the
8 existing order to be modified under this section. The motion shall be in writing in a form prescribed
9 by the administrator, shall set out the reasons for modification and shall state the telephone number
10 and address of the party requesting modification.

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

12 “(a) Whether there is pending in this state or any other jurisdiction any type of support pro-
13 ceeding involving the dependent child, including a proceeding brought under ORS 25.287, 107.085,
14 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, 125.025, 416.415, 419B.400 or 419C.590 or ORS
15 chapter 110; and

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

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

22 “(4) The moving party shall serve the motion upon the obligor, the obligee, the party holding the
23 support rights and the administrator, as appropriate. The nonrequesting parties must be served in
24 the same manner as provided for service of the notice and finding of financial responsibility under
25 ORS 416.415 (1)(a). Notwithstanding ORS 25.085, the requesting party must be served by first class
26 mail to the requesting party’s last known address. The nonrequesting parties have 30 days to resolve
27 the matter by stipulated agreement or to serve the moving party by regular mail with a written
28 response setting forth any objections to the motion and a request for hearing. The hearing shall be
29 conducted under ORS 416.427.

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

35 “(6) When the moving party is the administrator and no objections and request for hearing have

1 been served within 30 days, the administrator may enter an order granting the relief sought.

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

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

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

14 “(b) The administrator may allow a credit against child support arrearages for any Social Se-
15 curity or veterans’ benefits paid retroactively to the child, or to a representative payee administer-
16 ing the funds for the child’s use and benefit, as a result of a parent’s disability or retirement.

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

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

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

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

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

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

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

41 “(b) **Proceedings under this subsection may be initiated only when there is a period of**
42 **significant unemployment in Oregon. The Attorney General shall determine when a ‘period**
43 **of significant unemployment’ exists in Oregon and designate the beginning and ending dates**
44 **thereof. In making the determination of when a period of significant unemployment exists**
45 **in Oregon, the Attorney General may consider whether there is in effect an ‘extended benefit**

1 period' as that term is defined in ORS 657.321.

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

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

8 “(e) The motion for an order of suspension and temporary modification must be in writ-
9 ing and must include, but need not be limited to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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