

# House Bill 2280

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)

## 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**.

Deletes requirement that Department of Justice distribute certain amounts collected as child support to obligees who are receiving public assistance.

Declares emergency, effective July 1, 2009.

## A BILL FOR AN ACT

1  
2 Relating to child support obligees receiving public assistance; amending ORS 25.020; and declaring  
3 an emergency.

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

5 **SECTION 1.** ORS 25.020 is amended to read:

6 25.020. (1) Support payments for or on behalf of any person that are ordered, registered or filed  
7 under this chapter or ORS chapter 107, 108, 109, 110, 416, 419B or 419C, unless otherwise authorized  
8 by ORS 25.030, shall be made to the Department of Justice as the state disbursement unit:

9 (a) During periods for which support is assigned under ORS 412.024, 418.032, 419B.406 or  
10 419C.597;

11 (b) As provided by rules adopted under ORS 180.345, when public assistance is provided to a  
12 person who receives or has a right to receive support payments on the person's own behalf or on  
13 behalf of another person;

14 (c) After the assignment of support terminates for as long as amounts assigned remain owing;

15 (d) For any period during which support enforcement services are provided under ORS 25.080;

16 (e) When ordered by the court under ORS 419B.400;

17 (f) When a support order that is entered or modified on or after January 1, 1994, includes a  
18 provision requiring the obligor to pay support by income withholding; or

19 (g) When ordered by the court under any other applicable provision of law.

20 (2)[(a)] The Department of Justice shall disburse payments, after lawful deduction of fees and in  
21 accordance with applicable statutes and rules, to those persons and entities that are lawfully enti-  
22 tled to receive such payments.

23 [(b) *During a period for which support is assigned under ORS 412.024, for an obligee described*  
24 *in subsection (1)(b) of this section, the department shall distribute to the obligee, from child support*  
25 *collected each month, \$50 for each child up to a maximum of \$200 per family.*]

26 (3)(a) When the administrator is providing support enforcement services under ORS 25.080, the  
27 obligee may enter into an agreement with a collection agency, as defined in ORS 697.005, for as-  
28 sistance in collecting child support payments.

29 (b) The Department of Justice:

30 (A) Shall disburse support payments, to which the obligee is legally entitled, to the collection

**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 agency if the obligee submits the completed form referred to in paragraph (c)(A) of this subsection  
 2 to the department;

3 (B) May reinstate disbursements to the obligee if:

4 (i) The obligee requests that disbursements be made directly to the obligee;

5 (ii) The collection agency violates any provision of this subsection; or

6 (iii) The Department of Consumer and Business Services notifies the Department of Justice that  
 7 the collection agency is in violation of the rules adopted under ORS 697.086;

8 (C) Shall credit the obligor's account for the full amount of each support payment received by  
 9 the department and disbursed to the collection agency; and

10 (D) Shall develop the form referred to in paragraph (c)(A) of this subsection, which shall include  
 11 a notice to the obligee printed in type size equal to at least 12-point type that the obligee may be  
 12 eligible for support enforcement services from the department or the district attorney without pay-  
 13 ing the interest or fee that is typically charged by a collection agency.

14 (c) The obligee shall:

15 (A) Provide to the department, on a form approved by the department, information about the  
 16 agreement with the collection agency; and

17 (B) Promptly notify the department when the agreement is terminated.

18 (d) The collection agency:

19 (A) May provide investigative and location services to the obligee and disclose relevant infor-  
 20 mation from those services to the administrator for purposes of providing support enforcement ser-  
 21 vices under ORS 25.080;

22 (B) May not charge interest or a fee for its services exceeding 29 percent of each support pay-  
 23 ment received unless the collection agency, if allowed by the terms of the agreement between the  
 24 collection agency and the obligee, hires an attorney to perform legal services on behalf of the  
 25 obligee;

26 (C) May not initiate, without written authorization from the administrator, any enforcement  
 27 action relating to support payments on which support enforcement services are provided by the ad-  
 28 ministrator under ORS 25.080; and

29 (D) Shall include in the agreement with the obligee a notice printed in type size equal to at least  
 30 12-point type that provides information on the fees, penalties, termination and duration of the  
 31 agreement.

32 (e) The administrator may use information disclosed by the collection agency to provide support  
 33 enforcement services under ORS 25.080.

34 (4) The Department of Justice may immediately transmit to the obligee payments received from  
 35 any obligor without waiting for payment or clearance of the check or instrument received if the  
 36 obligor has not previously tendered any payment by a check or instrument that was not paid or was  
 37 dishonored.

38 (5) The Department of Justice shall notify each obligor and obligee by mail when support pay-  
 39 ments shall be made to the department and when the obligation to make payments in this manner  
 40 shall cease.

41 (6)(a) The administrator shall provide information about a child support account directly to a  
 42 party to the support order regardless of whether the party is represented by an attorney. As used  
 43 in this subsection, "information about a child support account" means the:

44 (A) Date of issuance of the support order.

45 (B) Amount of the support order.

- 1 (C) Dates and amounts of payments.
- 2 (D) Dates and amounts of disbursements.
- 3 (E) Payee of any disbursements.
- 4 (F) Amount of any arrearage.
- 5 (G) Source of any collection.

6 (b) Nothing in this subsection limits the information the administrator may provide by law to a  
7 party who is not represented by an attorney.

8 (7) Any pleading for the entry or modification of a support order must contain a statement that  
9 payment of support under a new or modified order will be by income withholding unless an excep-  
10 tion to payment by income withholding is granted under ORS 25.396.

11 (8)(a) Except as provided in paragraphs (d) and (e) of this subsection, a judgment or order es-  
12 tablishing paternity or including a provision concerning support must contain:

13 (A) The residence, mailing or contact address, Social Security number, telephone number and  
14 driver license number of each party;

15 (B) The name, address and telephone number of all employers of each party;

16 (C) The names and dates of birth of the joint children of the parties; and

17 (D) Any other information required by rule adopted by the Chief Justice of the Supreme Court  
18 under ORS 1.002.

19 (b) The judgment or order shall also include notice that the obligor and obligee:

20 (A) Must inform the court and the administrator in writing of any change in the information  
21 required by this subsection within 10 days after the change; and

22 (B) May request that the administrator review the amount of support ordered after three years,  
23 or such shorter cycle as determined by rule of the Department of Justice, or at any time upon a  
24 substantial change of circumstances.

25 (c) The administrator may require of the parties any additional information that is necessary for  
26 the provision of support enforcement services under ORS 25.080.

27 (d)(A) Upon a finding, which may be made ex parte, that the health, safety or liberty of a party  
28 or child would unreasonably be put at risk by the disclosure of information specified in this sub-  
29 section or by the disclosure of other information concerning a child or party to a paternity or sup-  
30 port proceeding or if an existing order so requires, a court or administrator or administrative law  
31 judge, when the proceeding is administrative, shall order that the information not be contained in  
32 any document provided to another party or otherwise disclosed to a party other than the state.

33 (B) The Department of Justice shall adopt rules providing for similar confidentiality for infor-  
34 mation described in subparagraph (A) of this paragraph that is maintained by an entity providing  
35 support enforcement services under ORS 25.080.

36 (e) The Chief Justice of the Supreme Court may, in consultation with the Department of Justice,  
37 adopt rules under ORS 1.002 to designate information specified in this subsection as confidential and  
38 require that the information be submitted through an alternate procedure to ensure that the infor-  
39 mation is exempt from public disclosure under ORS 192.502.

40 (9)(a) Except as otherwise provided in paragraph (b) of this subsection, in any subsequent child  
41 support enforcement action, the court or administrator, upon a showing of diligent effort made to  
42 locate the obligor or obligee, may deem due process requirements to be met by mailing notice to the  
43 last-known residential, mailing or employer address or contact address as provided in ORS 25.085.

44 (b) Service of an order directing an obligor to appear in a contempt proceeding is subject to  
45 ORS 33.015 to 33.155.

1 (10) Subject to ORS 25.030, this section, to the extent it imposes any duty or function upon the  
2 Department of Justice, shall be deemed to supersede any provisions of ORS chapters 107, 108, 109,  
3 110, 416, 419A, 419B and 419C that would otherwise impose the same duties or functions upon the  
4 county clerk or the Department of Human Services.

5 (11) Except as provided for in subsections (12), (13) and (14) of this section, credit may not be  
6 given for payments not made to the Department of Justice as required under subsection (1) of this  
7 section.

8 (12) The Department of Justice shall give credit for payments not made to the department:

9 (a) When payments are not assigned to this or another state and the obligee and obligor agree  
10 in writing that specific payments were made and should be credited;

11 (b) When payments are assigned to the State of Oregon, the obligor and obligee make sworn  
12 written statements that specific payments were made, canceled checks or other substantial evidence  
13 is presented to corroborate their statements and the obligee has been given prior written notice of  
14 any potential criminal or civil liability that may attach to an admission of the receipt of assigned  
15 support;

16 (c) When payments are assigned to another state and that state verifies that payments not paid  
17 to the department were received by the other state; or

18 (d) As provided by rule adopted under ORS 180.345.

19 (13) An obligor may apply to the Department of Justice for credit for payments made other than  
20 to the Department of Justice. If the obligee or other state does not provide the agreement, sworn  
21 statement or verification required by subsection (12) of this section, credit may be given pursuant  
22 to order of an administrative law judge assigned from the Office of Administrative Hearings after  
23 notice and opportunity to object and be heard are given to both obligor and obligee. Notice shall  
24 be served upon the obligee as provided by ORS 25.085. Notice to the obligor may be by regular mail  
25 at the address provided in the application for credit. A hearing conducted under this subsection is  
26 a contested case hearing and ORS 183.413 to 183.470 apply. Any party may seek a hearing de novo  
27 in the circuit court.

28 (14) Nothing in this section precludes the Department of Justice from giving credit for payments  
29 not made to the department when there has been a judicially determined credit or satisfaction or  
30 when there has been a satisfaction of support executed by the person to whom support is owed.

31 (15) The Department of Justice shall adopt rules that:

32 (a) Direct how support payments that are made through the department are to be applied and  
33 distributed; and

34 (b) Are consistent with federal regulations.

35 **SECTION 2. This 2009 Act being necessary for the immediate preservation of the public**  
36 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**  
37 **July 1, 2009.**

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