

House Bill 2281

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**.

Provides that child support services for youth offender or other offender in custody of Oregon Youth Authority may be provided only if youth offender or other offender is Medicaid recipient or Medicaid application has been made on behalf of youth offender or other offender. Provides that support payable for benefit of youth offender or other offender in custody of youth authority be paid to Department of Justice.

Limits circumstance in which support enforcement services are provided for spousal support.

Removes requirements relating to providing support enforcement services for certain child support orders entered in juvenile court.

Requires application before provision of support enforcement services.

A BILL FOR AN ACT

Relating to support; creating new provisions; and amending ORS 18.052, 25.020, 25.080, 25.130, 25.164, 25.381, 107.108, 192.502 and 419C.597.

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

SUPPORT SERVICES FOR YOUTH OFFENDERS

SECTION 1. ORS 419C.597 is amended to read:

419C.597. *[When a youth offender or other offender is in the legal or physical custody of the Oregon Youth Authority and the offender is the beneficiary of an order of support in a judgment of dissolution or other order and the youth authority is required to provide financial assistance for the care and support of the offender, the youth authority shall be assignee of and subrogated to the offender's proportionate share of any such support obligation including sums that have accrued whether or not the support order or judgment provides for separate monthly amounts for the support of each of two or more children or a single monthly gross payment for the benefit of two or more children, up to the amount of assistance provided by the youth authority. The assignment shall be as provided in ORS 412.024.]*

(1) Any child support that is payable under a judgment or administrative order for the benefit of a youth offender or other offender placed in the physical custody of the Oregon Youth Authority under ORS 137.124 is assigned to the youth authority, and the youth authority is subrogated to any person's claim to that child support.

(2) If a support order or judgment provides for a single monthly gross payment for the benefit of two or more children, the amount assigned to the youth authority under this section is equal to the youth offender's or other offender's proportionate share of the amount.

(3) Subsection (1) of this section applies to all amounts that are owing when the requirements of subsection (1) of this section are met, and all payments under the support

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 **order or judgment that become due thereafter.**

2 (4) **The amounts assigned to the youth authority under this section may not exceed the**
 3 **cost of assistance provided by the youth authority to the youth offender or other offender.**

4 (5) **The amounts assigned to the youth authority under this section shall be paid to the**
 5 **Department of Justice in the manner provided by ORS 25.020 if:**

6 (a) **The youth offender or other offender is in the legal or physical custody of the Oregon**
 7 **Youth Authority;**

8 (b) **The youth offender or other offender is a Medicaid recipient, or a Medicaid application**
 9 **has been made on behalf of the youth offender or other offender; and**

10 (c) **The youth authority is required to provide financial assistance for the care and sup-**
 11 **port of the youth offender or other offender.**

12 (6) **Amounts paid to the department under subsection (5) of this section shall be dis-**
 13 **bursed by the department to the youth authority.**

14 (7) **Support enforcement services as described in ORS 25.080 (4) shall be provided for**
 15 **amounts assigned to the youth authority under this section only if the amounts are paid to**
 16 **the department under subsection (5) of this section.**

17
 18 **SPOUSAL SUPPORT ENFORCEMENT SERVICES**

19
 20 **SECTION 2.** ORS 25.020 is amended to read:

21 25.020. (1) Support payments for or on behalf of any [*person*] **child** that are ordered, registered
 22 or filed under this chapter or **ORS 419C.597 (5) or** ORS chapter 107, 108, 109, 110, 416[,] **or** 419B
 23 [*or 419C*], unless otherwise authorized by ORS 25.030, shall be made to the Department of Justice
 24 as the state disbursement unit:

25 (a) During periods for which **the child** support is assigned under ORS 412.024, 418.032, 419B.406
 26 or 419C.597;

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

30 (c) After the assignment of **the child** support terminates for as long as amounts assigned remain
 31 owing;

32 (d) For any period during which support enforcement services **for the child support** are pro-
 33 vided under ORS 25.080;

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

35 (f) When [*a support order that*] **the order or judgment requiring payment of child support**
 36 is entered or modified on or after January 1, 1994, **and** includes a provision requiring the obligor
 37 to pay **the child** support by income withholding; or

38 (g) When **the child support** is ordered by the court under any other applicable provision of law.

39 (2) **Spousal support payments to an obligee must be made to the Department of Justice**
 40 **as the state disbursement unit during any period of time during which support enforcement**
 41 **services for the payments are provided under ORS 25.080.**

42 [(2)(a)] (3)(a) The Department of Justice shall disburse payments, after lawful deduction of fees
 43 and in accordance with applicable statutes and rules, to those persons and entities that are lawfully
 44 entitled to receive such payments.

45 (b) During a period for which **child** support is assigned under ORS 412.024, for an obligee de-

1 scribed in subsection (1)(b) of this section, the department shall distribute to the obligee, from child
 2 support collected each month, \$50 for each child up to a maximum of \$200 per family.

3 [(3)(a)] (4)(a) When the administrator is providing support enforcement services under ORS
 4 25.080, the obligee may enter into an agreement with a collection agency, as defined in ORS 697.005,
 5 for assistance in collecting child support payments.

6 (b) The Department of Justice:

7 (A) Shall disburse support payments, to which the obligee is legally entitled, to the collection
 8 agency if the obligee submits the completed form referred to in paragraph (c)(A) of this subsection
 9 to the department;

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

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

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

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

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

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

21 (c) The obligee shall:

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

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

25 (d) The collection agency:

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

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

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

36 (D) Shall include in the agreement with the obligee a notice printed in type size equal to at least
 37 12-point type that provides information on the fees, penalties, termination and duration of the
 38 agreement.

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

41 [(4)] (5) The Department of Justice may immediately transmit to the obligee payments received
 42 from any obligor without waiting for payment or clearance of the check or instrument received if
 43 the obligor has not previously tendered any payment by a check or instrument that was not paid
 44 or was dishonored.

45 [(5)] (6) The Department of Justice shall notify each obligor and obligee by mail when support

1 payments shall be made to the department and when the obligation to make payments in this manner
 2 shall cease.

3 [(6)(a)] **(7)(a)** The administrator shall provide information about a child support account directly
 4 to a party to the support order regardless of whether the party is represented by an attorney. As
 5 used in this subsection, “information about a child support account” means the:

- 6 (A) Date of issuance of the support order.
- 7 (B) Amount of the support order.
- 8 (C) Dates and amounts of payments.
- 9 (D) Dates and amounts of disbursements.
- 10 (E) Payee of any disbursements.
- 11 (F) Amount of any arrearage.
- 12 (G) Source of any collection.

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

15 [(7)] **(8)** Any pleading for the entry or modification of [a] **an award of child** support [order] must
 16 contain a statement that payment of support under a new or modified [order] **award** will be by in-
 17 come withholding unless an exception to payment by income withholding is granted under ORS
 18 25.396.

19 [(8)(a)] **(9)(a)** Except as provided in paragraphs (d) and (e) of this subsection, a judgment or or-
 20 der establishing paternity or including a provision concerning support must contain:

- 21 (A) The residence, mailing or contact address, Social Security number, telephone number and
 22 driver license number of each party;
- 23 (B) The name, address and telephone number of all employers of each party;
- 24 (C) The names and dates of birth of the joint children of the parties; and
- 25 (D) Any other information required by rule adopted by the Chief Justice of the Supreme Court
 26 under ORS 1.002.

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

- 28 (A) Must inform the court and the administrator in writing of any change in the information
 29 required by this subsection within 10 days after the change; and
- 30 (B) May request that the administrator review the amount of support ordered after three years,
 31 or such shorter cycle as determined by rule of the Department of Justice, or at any time upon a
 32 substantial change of circumstances.

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

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

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

44 (e) The Chief Justice of the Supreme Court may, in consultation with the Department of Justice,
 45 adopt rules under ORS 1.002 to designate information specified in this subsection as confidential and

1 require that the information be submitted through an alternate procedure to ensure that the infor-
 2 mation is exempt from public disclosure under ORS 192.502.

3 [(9)(a)] (10)(a) Except as otherwise provided in paragraph (b) of this subsection, in any subse-
 4 quent child support enforcement action, the court or administrator, upon a showing of diligent effort
 5 made to locate the obligor or obligee, may deem due process requirements to be met by mailing
 6 notice to the last-known residential, mailing or employer address or contact address as provided in
 7 ORS 25.085.

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

10 [(10)] (11) Subject to ORS 25.030, this section, to the extent it imposes any duty or function upon
 11 the Department of Justice, shall be deemed to supersede any provisions of ORS chapters 107, 108,
 12 109, 110, 416, 419A, 419B and 419C that would otherwise impose the same duties or functions upon
 13 the county clerk or the Department of Human Services.

14 [(11)] (12) Except as provided for in subsections [(12),] (13), [and] (14) and (15) of this section,
 15 credit may not be given for payments not made to the Department of Justice as required under
 16 subsection (1) of this section.

17 [(12)] (13) The Department of Justice shall give credit for payments not made to the department:

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

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

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

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

28 [(13)] (14) An obligor may apply to the Department of Justice for credit for payments made other
 29 than to the Department of Justice. If the obligee or other state does not provide the agreement,
 30 sworn statement or verification required by subsection [(12)] (13) of this section, credit may be given
 31 pursuant to order of an administrative law judge assigned from the Office of Administrative
 32 Hearings after notice and opportunity to object and be heard are given to both obligor and obligee.
 33 Notice shall be served upon the obligee as provided by ORS 25.085. Notice to the obligor may be
 34 by regular mail at the address provided in the application for credit. A hearing conducted under this
 35 subsection is a contested case hearing and ORS 183.413 to 183.470 apply. Any party may seek a
 36 hearing de novo in the circuit court.

37 [(14)] (15) Nothing in this section precludes the Department of Justice from giving credit for
 38 payments not made to the department when there has been a judicially determined credit or satis-
 39 faction or when there has been a satisfaction of support executed by the person to whom support
 40 is owed.

41 [(15)] (16) The Department of Justice shall adopt rules that:

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

44 (b) Are consistent with federal regulations.

45 **SECTION 3.** ORS 18.052 is amended to read:

1 18.052. (1) A judge rendering a judgment shall file with the court administrator a judgment
 2 document that incorporates the judgment. The judge must sign the judgment document unless the
 3 court administrator is authorized by law to sign the judgment document. Before signing a judgment
 4 document, the judge shall ensure that all requirements imposed by law for entry of the judgment
 5 have been fulfilled, including the making of any written findings of fact or conclusions of law. If a
 6 proposed judgment document submitted under ORS 18.035 does not comply with the requirements
 7 of ORS 18.038, 18.042 and 18.048, the judge may not sign the judgment document. If a proposed
 8 judgment document submitted under ORS 18.035 establishes paternity or includes a provision con-
 9 cerning support, but does not comply with the requirements of ORS 25.020 [(8)] (9), the judge may
 10 not sign the judgment document. Unless the judgment is exempt under ORS 18.038 (2), the judge
 11 shall ensure that the title of the judgment document indicates whether the judgment is a limited
 12 judgment, general judgment or supplemental judgment. If the judgment is a limited judgment ren-
 13 dered under the provisions of ORCP 67 B, the judge must determine that there is no just reason for
 14 delay, but the judgment document need not reflect that determination if the title of the judgment
 15 document indicates that the judgment is a limited judgment.

16 (2) A court administrator who signs a judgment under authority granted by law has the same
 17 duties as a judge under the provisions of this section.

18 (3) This section does not apply to justice courts, municipal courts or county courts performing
 19 judicial functions.

20 **SECTION 4.** ORS 25.130 is amended to read:

21 25.130. (1) The parties may elect to make support payments as provided in ORS 25.030 unless the
 22 provisions of ORS 25.020 (1) **or** (2) apply. The election terminates when the provisions of ORS 25.020
 23 (1) **or** (2) apply subsequent to the election.

24 (2) The election must be in writing and filed with the court that entered the support order. The
 25 election must be signed by both the obligor and the obligee and must specify the amount of the
 26 support payment, the date payment is due, the court order number and:

27 (a) The account number of the checking or savings account that is to be used; or

28 (b) The name of an escrow agent, licensed under ORS 696.511, to whom, and the account number
 29 into which, the payments are to be electronically transferred.

30 (3) Notice of termination of the bank or escrow agent option and payment requirements pursuant
 31 to ORS 25.020 or 25.030 shall be sent by the Department of Justice to the obligor's and to the
 32 obligee's last-known address.

33 **SECTION 5.** ORS 25.164 is amended to read:

34 25.164. (1) If the payment method for support payments set forth in the support judgment does
 35 not require payments to be made through the Department of Justice, the obligor, obligee, district
 36 attorney or Division of Child Support of the Department of Justice may request to have subsequent
 37 **child support** payments made through the department. All of the following apply to the request:

38 (a) The request must be in writing **and signed by the person making the request;**

39 (b) The request must include the last-known addresses of the obligor and the obligee; and

40 (c) The request must be filed with the department.

41 (2) When a request is made under this section, all of the following apply:

42 (a) The existing method of support accounting shall terminate effective the first day of the
 43 month following the month the request was filed;

44 (b) The department shall commence support accounting and distribution when the existing
 45 method is terminated; and

1 (c) The request constitutes an application for support enforcement services and for the use of
2 state and federal laws, regulations and rules relating to support payments and enforcement of judg-
3 ments.

4 (3) If there is no appropriate record of support payments for purposes of this section, the de-
5 partment may establish a record of arrearage under ORS 25.167.

6 **SECTION 6.** ORS 107.108 is amended to read:

7 107.108. (1) As used in this section:

8 (a) "Child attending school" means a child of the parties who:

9 (A) Is unmarried;

10 (B) Is 18 years of age or older and under 21 years of age;

11 (C) Is making satisfactory academic progress as defined by the school that the child attends; and

12 (D) Has a course load that is no less than one-half of the load that is determined by the school
13 to constitute full-time enrollment.

14 (b) "Regularly scheduled break" means:

15 (A) A summer semester or term;

16 (B) A period of time not exceeding four months between graduation from or completion of school
17 and the beginning of the next regularly scheduled term, semester or course of study at school;

18 (C) A period of time between the end and beginning of regularly scheduled consecutive school
19 semesters, terms or courses of study; or

20 (D) Any other scheduled break between courses of study that is defined by the school as a reg-
21 ularly scheduled break.

22 (c) "School" means:

23 (A) An educational facility such as a high school, community college, four-year college or uni-
24 versity;

25 (B) A course of professional, vocational or technical training, including the Job Corps, designed
26 to fit the child for gainful employment; or

27 (C) A high school equivalency course, including but not limited to a General Educational De-
28 velopment (GED) program, an educational program for grade 12 or below and home schooling.

29 (2) A support order entered or modified under this chapter or under ORS chapter 25, 108, 109,
30 110, 125, 416, 419B or 419C may require either parent, or both of them, to provide for the support
31 or maintenance of a child attending school.

32 (3) Notwithstanding ORS 416.407, a child attending school is a party to any legal proceeding
33 related to the support order. A child attending school may:

34 (a) Apply for services under ORS 25.080:

35 (A) If a support order provides for the support or maintenance of the child attending school; or

36 (B) In accordance with rules adopted by the Department of Justice;

37 (b) Request a judicial or administrative modification of the child support amount or may receive
38 notice of and participate in any modification proceeding; and

39 (c) Agree, in the same manner as an obligee under ORS 25.020 [(12)] (13), that payments not
40 made to the Department of Justice should be credited for amounts that would have been paid to the
41 child attending school if the payments had been made to the department.

42 (4) Regardless of whether the child is a child attending school, an unmarried child who is 18
43 years of age or older and under 21 years of age:

44 (a) Is a necessary party to a judicial proceeding under ORS 107.085, 107.135, 107.431, 108.110,
45 109.103 or 109.165 in which the child's parents are parties and the court has authority to order or

1 modify support for a child attending school; and

2 (b) May request notice of any proceeding initiated by the administrator to modify a support or-
 3 der that may affect the child’s rights as a child attending school. To receive notice, the child shall
 4 provide an address to the administrator, and the administrator shall notify the child of any modifi-
 5 cation proceeding by first class mail. To be a party to a proceeding, the child must send a written
 6 request to the administrator within 30 days after the date of the notice of the proceeding.

7 (5)(a) If a support order provides for the support or maintenance of a child attending school and
 8 the child qualifies as a child attending school, unless good cause is found for the distribution of the
 9 payment to be made in some other manner, support shall be distributed to the child if services are
 10 being provided under ORS 25.080 or shall be paid directly to the child if those services are not being
 11 provided.

12 (b) Unless otherwise ordered by the court, administrator or administrative law judge, when there
 13 are multiple children for whom support is ordered, the amount distributed or paid directly to a child
 14 attending school is a prorated share based on the number of children for whom support is ordered.
 15 However, if, due to a parenting time or split custody arrangement, support was not paid to the
 16 parent having primary physical custody of the child before the child turned 18 years of age, support
 17 may not be distributed or paid directly to the child attending school unless the support order is
 18 modified.

19 (c) The Department of Justice shall adopt rules to define good cause and circumstances under
 20 which the administrator or administrative law judge may allocate support by other than a prorated
 21 share and to determine how support is to be allocated in those circumstances.

22 (6)(a) For support payments to continue to be distributed or paid directly to the child attending
 23 school, the child shall provide to each parent ordered to pay support and, if services are being
 24 provided under ORS 25.080, to the department:

25 (A) Written notice of the child’s intent to attend or continue to attend school. The child shall
 26 provide the notice before reaching 18 years of age. The notice must include the name of the school
 27 and the expected graduation date or date when the child will stop attending classes. If the child
 28 changes schools, the child shall provide the information required by this subsection concerning the
 29 subsequent school before the expected graduation date or date when the child will stop attending
 30 classes at the previous school.

31 (B) Written consent that:

32 (i) Is directed to the child’s school and is in a form consistent with state and federal require-
 33 ments that restrict disclosure of student records;

34 (ii) Gives the school authority to disclose to each parent ordered to pay support the child’s en-
 35 rollment status, whether the child is maintaining satisfactory academic progress, a list of courses
 36 in which the child is enrolled and the child’s grades; and

37 (iii) States that the disclosure is for the purpose of permitting each parent to verify the child’s
 38 compliance with the requirements of this section.

39 (b) The child shall provide the written consent form described in paragraph (a)(B) of this sub-
 40 section within 30 days after the beginning of the first term or semester after the child reaches 18
 41 years of age, at the beginning of each academic year thereafter and as otherwise required by the
 42 school to disclose the information under this section.

43 (c) If an order of nondisclosure of information has been entered concerning the child under ORS
 44 25.020, the child may provide the information described in paragraph (a)(B) of this subsection in the
 45 manner established by the department by rule.

1 (7) Each parent ordered to pay support shall continue to make support payments, to be distrib-
 2 uted or paid directly, to the child during regularly scheduled breaks as long as the child intends to
 3 continue attending school the next scheduled term or semester.

4 (8) A parent's obligation to pay support to a child attending school is suspended when:

5 (a) The child has reached 18 years of age and has not provided written notice of the child's in-
 6 tent to attend or continue to attend school, or the child has graduated or reached the date to stop
 7 attending classes, as provided under subsection (6)(a)(A) of this section;

8 (b)(A) Services are not being provided under ORS 25.080;

9 (B) The parent has provided the child with a written notice of the parent's intent to stop paying
 10 support directly to the child because the child is no longer a child attending school or the child has
 11 not provided the written consent required by subsection (6)(a)(B) of this section; and

12 (C) Thirty days have passed since the parent provided the notice to the child and the parent
 13 has not received:

14 (i) Written confirmation from the school that the child is enrolled in the school and is a child
 15 attending school; or

16 (ii) The written consent from the child as required by subsection (6)(a)(B) of this section;

17 (c)(A) Services are being provided under ORS 25.080;

18 (B) A parent ordered to pay support has provided the department with written notice that the
 19 child is no longer a child attending school or that the child has not provided the written consent
 20 required by subsection (6)(a)(B) of this section;

21 (C) The department has provided written notice to the child requiring:

22 (i) Written confirmation, on a form developed by the department, from the school that the child
 23 is enrolled in the school and is a child attending school; and

24 (ii) Proof that the written consent required by subsection (6)(a)(B) of this section has been pro-
 25 vided to the parent ordered to pay support; and

26 (D) Thirty days have passed since the department provided the notice to the child and the de-
 27 partment has not received:

28 (i) Written confirmation from the school that the child is enrolled in the school and is a child
 29 attending school; or

30 (ii) Proof that the written consent required by subsection (6)(a)(B) of this section has been pro-
 31 vided to the parent ordered to pay support.

32 (9) When a parent's support obligation has been suspended under subsection (8) of this section,
 33 the obligation is reinstated:

34 (a) If services are not being provided under ORS 25.080, effective on the date the parent receives
 35 written confirmation from the school that the child is enrolled in the school and is a child attending
 36 school and receives the written consent from the child as required by subsection (6)(a)(B) of this
 37 section; or

38 (b) If services are being provided under ORS 25.080, effective on the date the department re-
 39 ceives written confirmation from the school that the child is enrolled in the school and is a child
 40 attending school and receives proof that the written consent required by subsection (6)(a)(B) of this
 41 section has been provided to the parent ordered to pay support.

42 (10) If a parent ordered to pay support is paying a prorated share under subsection (5) of this
 43 section and that obligation is suspended under subsection (8) of this section, the parent shall pay
 44 to the obligee the amount previously paid to the child attending school until such time as the sup-
 45 port order is modified. The suspension of a parent's obligation to pay support to a child attending

1 school is a substantial change of circumstances for purposes of modifying a support order. In a
 2 proceeding to modify a support order, the court, administrator or administrative law judge may or-
 3 der a modified amount of support and may order an amount of support to be paid in the event that
 4 a support obligation is reinstated under subsection (9) of this section.

5 (11)(a) If services are being provided under ORS 25.080 and the department has suspended a
 6 support obligation under subsection (8) of this section or reinstated a support obligation under sub-
 7 section (9) of this section, a party may request administrative review of the action within 30 days
 8 after the date of the notice that the department has suspended or reinstated the support obligation.

9 (b) The department may adopt rules specifying the issues that may be considered on review.

10 (c) A party may appeal the department’s decision on review under ORS 183.484.

11 (12)(a) Notwithstanding any other provision of this section, if a parent who is required to pro-
 12 vide for the support or maintenance of a child attending school has established a higher education
 13 savings plan for the child’s continued education, the court may order payment in accordance with
 14 the plan instead of ordering support that would otherwise be distributed or paid directly to the child
 15 under this section.

16 (b) If the court orders payment in accordance with the plan, the court may not order compliance
 17 with or payment of that provision of the order through the department.

18 (c) As used in this subsection, “higher education savings plan” means a tax-advantaged account
 19 established by a parent on behalf of a child for the purpose of paying qualified higher education
 20 expenses of the child at eligible educational institutions.

21 (13) A support order that provides for the support or maintenance of a child attending school
 22 is subject to this section regardless of when the support order was entered.

23 (14) A support order that provides for the support or maintenance of a child attending school
 24 is intended to recognize the importance of continuing education for a child over 18 years of age who
 25 does not benefit from an intact family or who has been removed from the household. While support
 26 may serve to supplement the resources available to the child attending school, it is not intended to
 27 replace other resources or meet all of the financial needs of a child attending school.

28 **SECTION 7.** ORS 192.502 is amended to read:

29 192.502. The following public records are exempt from disclosure under ORS 192.410 to 192.505:

30 (1) Communications within a public body or between public bodies of an advisory nature to the
 31 extent that they cover other than purely factual materials and are preliminary to any final agency
 32 determination of policy or action. This exemption shall not apply unless the public body shows that
 33 in the particular instance the public interest in encouraging frank communication between officials
 34 and employees of public bodies clearly outweighs the public interest in disclosure.

35 (2) Information of a personal nature such as but not limited to that kept in a personal, medical
 36 or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the
 37 public interest by clear and convincing evidence requires disclosure in the particular instance. The
 38 party seeking disclosure shall have the burden of showing that public disclosure would not consti-
 39 tute an unreasonable invasion of privacy.

40 (3) Public body employee or volunteer addresses, Social Security numbers, dates of birth and
 41 telephone numbers contained in personnel records maintained by the public body that is the em-
 42 ployer or the recipient of volunteer services. This exemption:

43 (a) Does not apply to the addresses, dates of birth and telephone numbers of employees or vol-
 44 unteers who are elected officials, except that a judge or district attorney subject to election may
 45 seek to exempt the judge’s or district attorney’s address or telephone number, or both, under the

1 terms of ORS 192.445;

2 (b) Does not apply to employees or volunteers to the extent that the party seeking disclosure
3 shows by clear and convincing evidence that the public interest requires disclosure in a particular
4 instance;

5 (c) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by a pro-
6 fessional education association of which the substitute teacher may be a member; and

7 (d) Does not relieve a public employer of any duty under ORS 243.650 to 243.782.

8 (4) Information submitted to a public body in confidence and not otherwise required by law to
9 be submitted, where such information should reasonably be considered confidential, the public body
10 has obliged itself in good faith not to disclose the information, and when the public interest would
11 suffer by the disclosure.

12 (5) Information or records of the Department of Corrections, including the State Board of Parole
13 and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabilitation of
14 a person in custody of the department or substantially prejudice or prevent the carrying out of the
15 functions of the department, if the public interest in confidentiality clearly outweighs the public in-
16 terest in disclosure.

17 (6) Records, reports and other information received or compiled by the Director of the Depart-
18 ment of Consumer and Business Services in the administration of ORS chapters 723 and 725 not
19 otherwise required by law to be made public, to the extent that the interests of lending institutions,
20 their officers, employees and customers in preserving the confidentiality of such information out-
21 weighs the public interest in disclosure.

22 (7) Reports made to or filed with the court under ORS 137.077 or 137.530.

23 (8) Any public records or information the disclosure of which is prohibited by federal law or
24 regulations.

25 (9)(a) Public records or information the disclosure of which is prohibited or restricted or other-
26 wise made confidential or privileged under Oregon law.

27 (b) Subject to ORS 192.423, paragraph (a) of this subsection does not apply to factual information
28 compiled in a public record when:

29 (A) The basis for the claim of exemption is ORS 40.225;

30 (B) The factual information is not prohibited from disclosure under any applicable state or fed-
31 eral law, regulation or court order and is not otherwise exempt from disclosure under ORS 192.410
32 to 192.505;

33 (C) The factual information was compiled by or at the direction of an attorney as part of an
34 investigation on behalf of the public body in response to information of possible wrongdoing by the
35 public body;

36 (D) The factual information was not compiled in preparation for litigation, arbitration or an
37 administrative proceeding that was reasonably likely to be initiated or that has been initiated by
38 or against the public body; and

39 (E) The holder of the privilege under ORS 40.225 has made or authorized a public statement
40 characterizing or partially disclosing the factual information compiled by or at the attorney's di-
41 rection.

42 (10) Public records or information described in this section, furnished by the public body ori-
43 ginally compiling, preparing or receiving them to any other public officer or public body in con-
44 nection with performance of the duties of the recipient, if the considerations originally giving rise
45 to the confidential or exempt nature of the public records or information remain applicable.

1 (11) Records of the Energy Facility Siting Council concerning the review or approval of security
 2 programs pursuant to ORS 469.530.

3 (12) Employee and retiree address, telephone number and other nonfinancial membership records
 4 and employee financial records maintained by the Public Employees Retirement System pursuant to
 5 ORS chapters 238 and 238A.

6 (13) Records of or submitted to the State Treasurer, the Oregon Investment Council or the
 7 agents of the treasurer or the council relating to active or proposed publicly traded investments
 8 under ORS chapter 293, including but not limited to records regarding the acquisition, exchange or
 9 liquidation of the investments. For the purposes of this subsection:

10 (a) The exemption does not apply to:

11 (A) Information in investment records solely related to the amount paid directly into an invest-
 12 ment by, or returned from the investment directly to, the treasurer or council; or

13 (B) The identity of the entity to which the amount was paid directly or from which the amount
 14 was received directly.

15 (b) An investment in a publicly traded investment is no longer active when acquisition, exchange
 16 or liquidation of the investment has been concluded.

17 (14)(a) Records of or submitted to the State Treasurer, the Oregon Investment Council, the
 18 Oregon Growth Account Board or the agents of the treasurer, council or board relating to actual
 19 or proposed investments under ORS chapter 293 or 348 in a privately placed investment fund or a
 20 private asset including but not limited to records regarding the solicitation, acquisition, deployment,
 21 exchange or liquidation of the investments including but not limited to:

22 (A) Due diligence materials that are proprietary to an investment fund, to an asset ownership
 23 or to their respective investment vehicles.

24 (B) Financial statements of an investment fund, an asset ownership or their respective invest-
 25 ment vehicles.

26 (C) Meeting materials of an investment fund, an asset ownership or their respective investment
 27 vehicles.

28 (D) Records containing information regarding the portfolio positions in which an investment
 29 fund, an asset ownership or their respective investment vehicles invest.

30 (E) Capital call and distribution notices of an investment fund, an asset ownership or their re-
 31 spective investment vehicles.

32 (F) Investment agreements and related documents.

33 (b) The exemption under this subsection does not apply to:

34 (A) The name, address and vintage year of each privately placed investment fund.

35 (B) The dollar amount of the commitment made to each privately placed investment fund since
 36 inception of the fund.

37 (C) The dollar amount of cash contributions made to each privately placed investment fund since
 38 inception of the fund.

39 (D) The dollar amount, on a fiscal year-end basis, of cash distributions received by the State
 40 Treasurer, the Oregon Investment Council, the Oregon Growth Account Board or the agents of the
 41 treasurer, council or board from each privately placed investment fund.

42 (E) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a privately
 43 placed investment fund attributable to an investment by the State Treasurer, the Oregon Investment
 44 Council, the Oregon Growth Account Board or the agents of the treasurer, council or board.

45 (F) The net internal rate of return of each privately placed investment fund since inception of

1 the fund.

2 (G) The investment multiple of each privately placed investment fund since inception of the fund.

3 (H) The dollar amount of the total management fees and costs paid on an annual fiscal year-end
4 basis to each privately placed investment fund.

5 (I) The dollar amount of cash profit received from each privately placed investment fund on a
6 fiscal year-end basis.

7 (15) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning the
8 Public Employees Retirement Fund and the Industrial Accident Fund may be uniformly treated as
9 exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.

10 (16) Reports of unclaimed property filed by the holders of such property to the extent permitted
11 by ORS 98.352.

12 (17) The following records, communications and information submitted to the Oregon Economic
13 and Community Development Commission, the Economic and Community Development Department,
14 the State Department of Agriculture, the Oregon Growth Account Board, the Port of Portland or
15 other ports, as defined in ORS 777.005, by applicants for investment funds, loans or services includ-
16 ing, but not limited to, those described in ORS 285A.224:

17 (a) Personal financial statements.

18 (b) Financial statements of applicants.

19 (c) Customer lists.

20 (d) Information of an applicant pertaining to litigation to which the applicant is a party if the
21 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such
22 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been
23 concluded, and nothing in this paragraph shall limit any right or opportunity granted by discovery
24 or deposition statutes to a party to litigation or potential litigation.

25 (e) Production, sales and cost data.

26 (f) Marketing strategy information that relates to applicant's plan to address specific markets
27 and applicant's strategy regarding specific competitors.

28 (18) Records, reports or returns submitted by private concerns or enterprises required by law
29 to be submitted to or inspected by a governmental body to allow it to determine the amount of any
30 transient lodging tax payable and the amounts of such tax payable or paid, to the extent that such
31 information is in a form which would permit identification of the individual concern or enterprise.
32 Nothing in this subsection shall limit the use which can be made of such information for regulatory
33 purposes or its admissibility in any enforcement proceedings. The public body shall notify the tax-
34 payer of the delinquency immediately by certified mail. However, in the event that the payment or
35 delivery of transient lodging taxes otherwise due to a public body is delinquent by over 60 days, the
36 public body shall disclose, upon the request of any person, the following information:

37 (a) The identity of the individual concern or enterprise that is delinquent over 60 days in the
38 payment or delivery of the taxes.

39 (b) The period for which the taxes are delinquent.

40 (c) The actual, or estimated, amount of the delinquency.

41 (19) All information supplied by a person under ORS 151.485 for the purpose of requesting ap-
42 pointed counsel, and all information supplied to the court from whatever source for the purpose of
43 verifying the financial eligibility of a person pursuant to ORS 151.485.

44 (20) Workers' compensation claim records of the Department of Consumer and Business Services,
45 except in accordance with rules adopted by the Director of the Department of Consumer and Busi-

1 ness Services, in any of the following circumstances:

2 (a) When necessary for insurers, self-insured employers and third party claim administrators to
3 process workers' compensation claims.

4 (b) When necessary for the director, other governmental agencies of this state or the United
5 States to carry out their duties, functions or powers.

6 (c) When the disclosure is made in such a manner that the disclosed information cannot be used
7 to identify any worker who is the subject of a claim.

8 (d) When a worker or the worker's representative requests review of the worker's claim record.

9 (21) Sensitive business records or financial or commercial information of the Oregon Health and
10 Science University that is not customarily provided to business competitors.

11 (22) Records of Oregon Health and Science University regarding candidates for the position of
12 president of the university.

13 (23) The records of a library, including:

14 (a) Circulation records, showing use of specific library material by a named person;

15 (b) The name of a library patron together with the address or telephone number of the patron;
16 and

17 (c) The electronic mail address of a patron.

18 (24) The following records, communications and information obtained by the Housing and Com-
19 munity Services Department in connection with the department's monitoring or administration of
20 financial assistance or of housing or other developments:

21 (a) Personal and corporate financial statements and information, including tax returns.

22 (b) Credit reports.

23 (c) Project appraisals.

24 (d) Market studies and analyses.

25 (e) Articles of incorporation, partnership agreements and operating agreements.

26 (f) Commitment letters.

27 (g) Project pro forma statements.

28 (h) Project cost certifications and cost data.

29 (i) Audits.

30 (j) Project tenant correspondence.

31 (k) Personal information about a tenant.

32 (L) Housing assistance payments.

33 (25) Raster geographic information system (GIS) digital databases, provided by private forestland
34 owners or their representatives, voluntarily and in confidence to the State Forestry Department,
35 that is not otherwise required by law to be submitted.

36 (26) Sensitive business, commercial or financial information furnished to or developed by a
37 public body engaged in the business of providing electricity or electricity services, if the information
38 is directly related to a transaction described in ORS 261.348, or if the information is directly related
39 to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and
40 disclosure of the information would cause a competitive disadvantage for the public body or its re-
41 tail electricity customers. This subsection does not apply to cost-of-service studies used in the de-
42 velopment or review of generally applicable rate schedules.

43 (27) Sensitive business, commercial or financial information furnished to or developed by the
44 City of Klamath Falls, acting solely in connection with the ownership and operation of the Klamath
45 Cogeneration Project, if the information is directly related to a transaction described in ORS 225.085

1 and disclosure of the information would cause a competitive disadvantage for the Klamath
2 Cogeneration Project. This subsection does not apply to cost-of-service studies used in the develop-
3 ment or review of generally applicable rate schedules.

4 (28) Personally identifiable information about customers of a municipal electric utility or a
5 people's utility district or the names, dates of birth, driver license numbers, telephone numbers,
6 electronic mail addresses or Social Security numbers of customers who receive water, sewer or
7 storm drain services from a public body as defined in ORS 174.109. The utility or district may re-
8 lease personally identifiable information about a customer, and a public body providing water, sewer
9 or storm drain services may release the name, date of birth, driver license number, telephone num-
10 ber, electronic mail address or Social Security number of a customer, if the customer consents in
11 writing or electronically, if the disclosure is necessary for the utility, district or other public body
12 to render services to the customer, if the disclosure is required pursuant to a court order or if the
13 disclosure is otherwise required by federal or state law. The utility, district or other public body
14 may charge as appropriate for the costs of providing such information. The utility, district or other
15 public body may make customer records available to third party credit agencies on a regular basis
16 in connection with the establishment and management of customer accounts or in the event such
17 accounts are delinquent.

18 (29) A record of the street and number of an employee's address submitted to a special district
19 to obtain assistance in promoting an alternative to single occupant motor vehicle transportation.

20 (30) Sensitive business records, capital development plans or financial or commercial information
21 of Oregon Corrections Enterprises that is not customarily provided to business competitors.

22 (31) Documents, materials or other information submitted to the Director of the Department of
23 Consumer and Business Services in confidence by a state, federal, foreign or international regulatory
24 or law enforcement agency or by the National Association of Insurance Commissioners, its affiliates
25 or subsidiaries under ORS 646A.250 to 646A.270, 697.005 to 697.095, 697.602 to 697.842, 705.137,
26 717.200 to 717.320, 717.900 or 717.905, ORS chapter 59, 722, 723, 725 or 726, the Bank Act or the
27 Insurance Code when:

28 (a) The document, material or other information is received upon notice or with an under-
29 standing that it is confidential or privileged under the laws of the jurisdiction that is the source of
30 the document, material or other information; and

31 (b) The director has obligated the Department of Consumer and Business Services not to dis-
32 close the document, material or other information.

33 (32) A county elections security plan developed and filed under ORS 254.074.

34 (33) Information about review or approval of programs relating to the security of:

35 (a) Generation, storage or conveyance of:

36 (A) Electricity;

37 (B) Gas in liquefied or gaseous form;

38 (C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

39 (D) Petroleum products;

40 (E) Sewage; or

41 (F) Water.

42 (b) Telecommunication systems, including cellular, wireless or radio systems.

43 (c) Data transmissions by whatever means provided.

44 (34) The information specified in ORS 25.020 [(8)] (9) if the Chief Justice of the Supreme Court
45 designates the information as confidential by rule under ORS 1.002.

**ENFORCEMENT OF CERTAIN SUPPORT ORDERS
OF JUVENILE COURTS**

SECTION 8. ORS 25.080 is amended to read:

25.080. (1) This subsection describes the entity primarily responsible for providing support enforcement services described in subsection (4) of this section for any order or judgment that is or could be entered under ORS chapter 107, 108, 109, 110 or 416 or ORS 419B.400 [or 419C.590]. The entity shall provide the support enforcement services described in subsection (4) of this section on behalf of the State of Oregon and no other party or either parent. The following entity is primarily responsible:

(a) The Division of Child Support of the Department of Justice:

(A) If support rights are, or were within the past five months, assigned to this or another state;

or

(B) In any case where arrearage under a support order is assigned or owed to or the right to recover back support or state debt is held by this state or another state.

(b) Except as provided in subsection (6) of this section, the district attorney in cases other than those described in paragraph (a) of this subsection if the obligee, obligor, beneficiary or person having physical custody of a minor child regarding any support order that has been imposed or could be imposed requests support enforcement services.

(2) The Department of Justice shall adopt rules addressing the provision of support enforcement services when the purposes of the state in providing those services may be contradictory in individual cases.

(3) Notwithstanding the division of responsibility for providing support enforcement services between the Division of Child Support and the district attorney as described in subsection (1) of this section, provision of support enforcement services may not be challenged on the basis that the entity providing the services in a particular case is not the entity responsible for the case under subsection (1) of this section.

(4) When responsible for providing support enforcement services and there is sufficient evidence available to support the action to be taken, the entity described in subsection (1) of this section:

(a) Shall establish and enforce any child support obligation;

(b) Shall establish paternity;

(c) Shall enforce spousal support when the obligee is living with the obligor's child for whom support enforcement services are being provided and those services are funded in part by federal moneys;

(d) May enforce any other order or judgment for spousal support;

(e) Shall, on behalf of the state, initiate and respond to child support modification proceedings based upon a substantial change of circumstances;

(f) Shall, on behalf of the state, initiate and respond to child support modification proceedings based upon a modification conducted under ORS 25.287 concerning existing child support orders;

(g) Shall establish and enforce obligations to provide medical insurance coverage for dependent children;

(h) Shall ensure compliance with the provisions of 42 U.S.C. 651 to 669 and 45 C.F.R. Chapter III as authorized by state law;

(i) Shall carry out the policy of the State of Oregon regarding child support obligations as expressed in ORS 416.405; and

1 (j) Shall ensure that child support orders are in compliance with the formula established by this
 2 chapter.

3 (5) In any proceeding under subsection (4) of this section, the parties are those described in ORS
 4 416.407.

5 (6) The district attorney of any county and the department may provide by agreement for as-
 6 sumption by the Division of Child Support of the functions of the district attorney under subsection
 7 (1) of this section or for redistribution between the district attorney and the Division of Child Sup-
 8 port of all or any portion of the duties, responsibilities and functions set forth in subsections (1) and
 9 (4) of this section.

10 (7) All county governing bodies and all district attorneys shall enter into child support cooper-
 11 ative agreements with the department. The following apply to this subsection:

12 (a) The agreements shall contain appropriate terms and conditions sufficient for the state to
 13 comply with all child support enforcement service requirements under federal law; and

14 (b) If this state loses any federal funds due to the failure of a county governing body or district
 15 attorney to either enter into an agreement under this subsection or to provide sufficient support
 16 enforcement service, the county shall be liable to the department for, and the liability shall be lim-
 17 ited to, the amount of money the state determines it lost because of the failure. The state shall offset
 18 the loss from any moneys the state is holding for or owes the county or from any moneys the state
 19 would pay to the county for any purpose.

20 (8) The Department of Justice shall enter into an agreement with the Oregon District Attorneys
 21 Association to establish a position or positions to act as a liaison between the Division of Child
 22 Support and those district attorneys who provide support enforcement services under this section.
 23 The department shall fund the position or positions. The Oregon District Attorneys Association shall
 24 administer the liaison position or positions under the agreement. The liaison shall work to:

25 (a) Enhance the participation and interaction of the district attorneys in the development and
 26 implementation of Child Support Program policies and services; and

27 (b) Increase the effectiveness of child support enforcement services provided by the district at-
 28 torneys.

29 (9) The district attorney or the Division of Child Support, whichever is appropriate, shall pro-
 30 vide the services specified in subsections (1) and (4) of this section to any person requesting them,
 31 but may in their discretion, upon a determination and notice to the person requesting the service
 32 that the prospect of successful recovery from the obligor of a portion of the delinquency or future
 33 payments is remote, require payment to the district attorney or the Division of Child Support of an
 34 application fee, in accordance with an application fee schedule established by rule by the depart-
 35 ment. If service performed results in the district attorney or the Division of Child Support recover-
 36 ing any support enforcement fees, the fees shall be paid to the applicant in an amount equal to the
 37 amount of the application fee.

38 (10) An obligee may request the Division of Child Support or a district attorney to cease all
 39 collection efforts if it is anticipated that physical or emotional harm will be caused to the parent
 40 or caretaker relative or the child for whom support was to have been paid. The department, by rule,
 41 shall set out the circumstances under which such requests shall be honored.

42
 43 **ENFORCEMENT OF SUPPORT ORDERS WITHOUT**
 44 **APPLICATION FOR SERVICES**
 45

1 **SECTION 9.** ORS 25.381 is amended to read:

2 25.381. (1) Whenever services are being provided under ORS 25.080, support rights are not and
3 have not at any time during the past five months been assigned to this or another state, and no
4 arrearages under a support order are so assigned, the administrator shall provide, upon request of
5 an obligor or obligee, services sufficient to permit establishment of income withholding under ORS
6 25.378, including services necessary to establish a support payment record under ORS 25.164 and
7 25.167.

8 (2) Regardless of whether services are being provided under ORS 25.080, the administrator shall
9 provide, upon request of an obligor or obligee, services sufficient to permit establishment of income
10 withholding under ORS 25.378[:]

11 [(a) *For the payment of child support without the necessity of an application for support enforce-*
12 *ment services under Title IV-D of the Social Security Act (42 U.S.C. 651 et seq.); and]*

13 [(b)] for the payment of spousal support if the obligee is receiving food stamps or any other form
14 of public assistance, as defined in ORS 411.010, from the Department of Human Services.

15

16

CAPTIONS

17

18 **SECTION 10.** **The unit captions used in this 2009 Act are provided only for the conven-**
19 **ience of the reader and do not become part of the statutory law of this state or express any**
20 **legislative intent in the enactment of this 2009 Act.**

21
