

A-Engrossed
Senate Bill 45

Ordered by the Senate March 3
Including Senate Amendments dated March 3

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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.

- Makes time for response or to request hearing consistent in child support proceedings.
- Removes presumption of inability to pay child support for parents receiving foster care payments.
- Makes optional requirement of written application for support enforcement services in support judgments.
- Permits service of notices in child support proceedings by mail with delivery confirmation.
- Exempts Division of Child Support investigators from restrictions on authority to serve legal process within certain physical boundaries.

A BILL FOR AN ACT

1
2 Relating to child support program administration; creating new provisions; and amending ORS
3 25.015, 25.084, 25.085, 25.167, 25.245, 25.321, 25.323, 25.333, 25.399, 25.405, 25.670, 25.759, 180.260,
4 416.415, 416.429 and 416.448.

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

6 **SECTION 1.** ORS 25.167 is amended to read:

7 25.167. This section establishes procedures for determining the amount of arrearage and for
8 making a record of arrearage of support payments. All of the following apply to this section:

9 (1) A record of support payment arrearage may be established by:

10 (a) Court order;

11 (b) A governing child support judgment issued under ORS 25.091 or 416.448;

12 (c) Administrative order issued under ORS 416.427 or 416.429;

13 (d) Stipulation of the parties; or

14 (e) The procedures under subsection (2) of this section whenever an existing child or spousal
15 support case enters the Department of Justice records system without a current payment record
16 maintained by any court clerk.

17 (2) When allowed under subsection (1) of this section, arrearage amounts may be established
18 under this subsection. All of the following apply to this subsection:

19 (a) The obligee or obligor may execute a certificate in a form acceptable to the Department of
20 Justice that states the total amount owed or the payment history in as much detail as is necessary
21 to demonstrate the periods and amounts of any arrearage.

22 (b) The person making the certificate shall file the original certificate with the court in which
23 the support judgment was entered. When a governing child support judgment has been issued, the

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 person making the certificate shall file the original certificate with the court that issued the gov-
2 erning child support judgment.

3 (c) The person making the certificate shall serve a true copy of the certificate upon the other
4 party together with a notice that the certificate will be the basis of a permanent record unless the
5 other party files objections.

6 (d) For objections to be valid under paragraph (c) of this subsection, the other party must file
7 the objection with the court within [14] 30 days from the date of service of the certificate and must
8 mail or serve true copies of the objections on both the party who filed the certificate and either:

9 (A) The district attorney; or

10 (B) If support rights are or have been assigned to the State of Oregon at any time within the
11 last five months or if arrears under the support judgment are so assigned, the Division of Child
12 Support of the Department of Justice.

13 (e) If objections are filed within the time allowed, the party filing the certificate must file a
14 supplemental certificate that is in a form acceptable to the department and that provides any in-
15 formation concerning the payment history that the department determines necessary.

16 (f) If objections are filed within the time allowed, the district attorney or the Division of Child
17 Support shall cause the case to be set for a court hearing. At the hearing, the court shall consider
18 the correctness of the certificate but may not consider objections to the merits of the support
19 judgment. The parties may settle the case by written agreement anytime before the court hearing.
20 Notice of the court hearing shall be served upon the party filing the objections as authorized in
21 ORCP 9 B.

22 (g) If no objections are filed under this subsection within the time allowed, the amount of
23 arrearage stated in the certificate is the amount owed for purposes of any subsequent action. The
24 district attorney or the Division of Child Support shall file with the court a certificate stating the
25 arrearage established under this paragraph.

26 (3) When an application for support enforcement services is made under ORS 25.164, an agency
27 or court may not take or allow any ex parte enforcement action on amounts owed as arrearage from
28 before the time that the Department of Justice commences support accounting and disbursement
29 until the amount is established under this section. This subsection does not prohibit or limit any
30 enforcement action on support payments that become due subsequent to the department's com-
31 mencement of support accounting and disbursement under ORS 25.164.

32 (4) In any determination under this section, a canceled check, payable to the obligee, indorsed
33 by the obligee or deposited to an account of the obligee, drawn on the account of the obligor and
34 marked as child support shall be prima facie evidence that child support was paid to the obligee in
35 the amount shown on the face of the check. It is immaterial that the check was signed by a person
36 other than the obligor, provided that the person who signed the check was an authorized signatory
37 of checks drawn on the account.

38 **SECTION 2.** ORS 25.245 is amended to read:

39 25.245. (1) Notwithstanding any other provision of Oregon law, a parent who is eligible for and
40 receiving cash payments under ORS 412.001 to 412.069 [and 418.647], Title IV-A of the Social Secu-
41 rity Act, the general assistance program as provided in ORS chapter 411 or a general assistance
42 program of another state or tribe, the Oregon Supplemental Income Program or the federal Supple-
43 mental Security Income Program shall be rebuttably presumed unable to pay child support and a
44 child support obligation does not accrue unless the presumption is rebutted.

45 (2) Each month, the Department of Human Services shall identify those persons receiving cash

1 payments under the programs listed in subsection (1) of this section that are administered by the
2 State of Oregon and provide that information to the administrator. If benefits are received from
3 programs listed in subsection (1) of this section that are administered by other states, tribes or
4 federal agencies, the obligor shall provide the administrator with written documentation of the
5 benefits. The Department of Human Services shall adopt rules to implement this subsection.

6 (3) The administrator shall refer to the information provided in subsection (2) of this section
7 prior to establishing any child support obligation. Within 30 days following identification of persons
8 under subsection (2) of this section, the entity responsible for support enforcement services under
9 ORS 25.080 shall provide notice of the presumption to the obligee and obligor and shall inform all
10 parties to the support order that, unless a party objects as provided in subsection (4) of this section,
11 child support shall cease accruing beginning with the support payment due on or after the date the
12 obligor first begins receiving the cash payments and continuing through the support payment due
13 in the last month in which the obligor received the cash payments. The entity responsible for sup-
14 port enforcement services shall serve the notice on the obligee in the manner provided for the ser-
15 vice of summons in a civil action, [or] by certified mail, return receipt requested, **or by any other**
16 **mail service with delivery confirmation** and shall serve the notice on the obligor by first class
17 mail to the obligor's last-known address. The notice shall specify the month in which cash payments
18 are first made and shall contain a statement that the administrator represents the state and that low
19 cost legal counsel may be available.

20 (4) A party may object to the presumption by sending an objection to the entity responsible for
21 support enforcement services under ORS 25.080 within [20] **30** days after the date of service of the
22 notice. The objection must describe the resources of the obligor or other evidence that might rebut
23 the presumption of inability to pay child support. The entity receiving the objection shall cause the
24 case to be set for a hearing before a court or an administrative law judge. The court or adminis-
25 trative law judge may consider only whether the presumption has been rebutted.

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

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

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

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

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

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

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

1 entered.

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

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

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

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

19 **SECTION 3.** ORS 416.415 is amended to read:

20 416.415. (1)(a) At any time after the state is assigned support rights, a public assistance payment
21 is made, an application for enforcement services under ORS 25.080 is made by an individual who is
22 not a recipient of public assistance or a written request for enforcement of a support obligation is
23 received from the state agency of another state responsible for administering the federal child sup-
24 port enforcement program, the administrator may, if there is no court order or administrative sup-
25 port order, issue a notice and finding of financial responsibility. The notice shall be served upon the
26 parent in the manner prescribed for service of summons in a civil action, [*or*] by certified mail, re-
27 turn receipt requested, **or by any other mail service with delivery confirmation**. Notices that
28 involve the establishment of paternity must be served by personal service. All notices may be per-
29 sonally served by the administrator [*on the premises of the offices of the administrator*].

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

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

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

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

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

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

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

40 (A) Whether there is pending in this state or any other jurisdiction any type of support pro-
41 ceeding involving the dependent child, including a proceeding brought under ORS 25.287, 107.085,
42 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, 125.025, 416.425, 419B.400 or 419C.590 or ORS
43 chapter 110; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (6) If a timely written response setting forth objections and requesting a hearing is received by

1 the appropriate office, a hearing shall be held under ORS 416.427.

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

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

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

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

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

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

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

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

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

18 **SECTION 4.** ORS 416.429 is amended to read:

19 416.429. (1) The administrator may issue a notice of intent to establish and enforce arrearages
20 for any support order that is registered, filed or entered in this state. The notice must be served
21 upon the obligor in the manner prescribed for service of summons in a civil action, [or] mailed to
22 the obligor at the obligor's last-known address by certified mail, return receipt requested, **or by any**
23 **other mail service with delivery confirmation.** The administrator shall mail the notice to the
24 obligee by regular mail.

25 (2) The notice shall include:

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

28 (b) A statement of the monthly support the obligor is required to pay under the support order;

29 (c) A statement of the arrearages claimed to be owed under the support order;

30 (d) A demand that the obligor make full payment to the Department of Justice or the clerk of
31 the court, whichever is appropriate, within [14] **30** days of the receipt or service of the notice;

32 (e) A statement that if full payment or an objection is not received within [14] **30** days, the ad-
33 ministrator will enter an order directing that the amount of the arrearages stated in the notice be
34 entered in the child support accounting record maintained by the Department of Justice;

35 (f) A statement that if the obligor or the obligee objects to the enforcement of the arrearages,
36 then the objecting party must send to the office issuing the notice, within [14] **30** days of the date
37 of service, a written response that sets forth any objections and requests a hearing;

38 (g) A statement that the only basis upon which an obligor or an obligee may object to the
39 enforcement of the arrearages is that the amount of the arrearages specified in the notice is incor-
40 rect;

41 (h) A reference to ORS 416.400 to 416.465;

42 (i) A statement that the obligor and the obligee are responsible for notifying the office of any
43 change of address or employment;

44 (j) A statement that if the obligor or the obligee has any questions, the obligor or obligee should
45 telephone or visit the appropriate office or consult an attorney; and

1 (k) Such other information as the administrator finds appropriate.

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

4 (4) If no timely written response and request for hearing is received by the appropriate office,
5 the administrator shall enter an order directing that the amount of the arrearages stated in the
6 notice be entered in the child support accounting record maintained by the Department of Justice.

7 (5) Action to administratively enforce and collect upon the arrearages established under this
8 section may be taken [14] 30 days after service of or receipt or refusal of the notice by the obligor
9 or obligee.

10 (6) Nothing in this section shall prevent the administrator from using other available enforce-
11 ment remedies at any time.

12 **SECTION 5.** ORS 25.084 is amended to read:

13 25.084. (1) The administrator may provide support enforcement services as described in ORS
14 25.080 only if support rights have been assigned to the state or if a person has provided a written
15 application to the administrator that:

16 (a) Is signed by the person;

17 (b) Includes the last-known addresses of the obligor and the obligee; and

18 (c) Indicates that the person is applying for child support services.

19 (2) Any support judgment that provides for payment to the Department of Justice under ORS
20 25.020 [must] **may** have an application incorporated in the judgment.

21 **SECTION 6.** ORS 25.323 is amended to read:

22 25.323. (1) Every child support order must include a medical support clause.

23 (2) Whenever a child support order that does not include a medical support clause is modified
24 the modification must include a medical support clause.

25 (3) A medical support clause may require that medical support be provided in more than one
26 form, and may make the requirement that medical support be provided in a particular form contin-
27 gent on the availability of another form of medical support.

28 (4) A medical support clause must require that one or both parents provide private health care
29 coverage for a child that is appropriate and available at the time the order is entered. If private
30 health care coverage for a child is not appropriate and available at the time the order is entered,
31 the order must:

32 (a) Require that one or both parents provide private health care coverage for the child at any
33 time thereafter when such coverage becomes available; and

34 (b) Either require the payment of cash medical support, or include findings on why cash medical
35 support has not been required.

36 (5) For the purposes of subsection (4) of this section, private health care coverage is appropriate
37 and available for a child if the coverage:

38 (a) Is accessible, as described in subsection (6) of this section;

39 (b) Is reasonable in cost and does not require the payment of unreasonable deductibles or
40 copayments; and

41 (c) Provides coverage, at a minimum, for medical expenses, hospital expenses, preventive care,
42 emergency care, acute care and chronic care.

43 (6) Private health care coverage is accessible for the purposes of subsection (5)(a) of this section
44 if:

45 (a) The coverage will be available for at least one year, based on the work history of the parent

1 providing the coverage; and

2 (b) The coverage either does not have service area limitations or the child lives within 30 miles
3 or 30 minutes of a primary care provider who is eligible for payment under the coverage.

4 (7) A medical support clause may not order a providing party to pay cash medical support or
5 **to pay to** provide health care coverage if the providing party's income is equal to or less than the
6 Oregon minimum wage for full-time employment.

7 (8) Cash medical support and the cost of other medical support ordered under a medical support
8 clause constitute a child support obligation and must be included in the child support calculation
9 made under ORS 25.275.

10 **SECTION 7.** ORS 180.260 is amended to read:

11 180.260. (1) Notwithstanding ORCP 7 E or any other law, employees and officers of the Depart-
12 ment of Justice other than attorneys may serve summons, process and other notice, including [*no-*
13 *tices and findings of financial responsibility under ORS 416.415*] **all child support actions initiated**
14 **by the Division of Child Support or to which the division is a party**, in litigation and other
15 proceedings in which the state is interested. [*No*] **An** employee or officer [*shall*] **may not** serve
16 process or other notice in any case or proceeding in which the employee or officer has a personal
17 interest or in which it reasonably may be anticipated that the employee or officer will be a material
18 witness.

19 (2) **Except as provided in subsection (3) of this section**, the authority granted by subsection
20 (1) of this section may be exercised only in, and within reasonable proximity of, the regular business
21 offices of the Department of Justice, or in situations in which the immediate service of process is
22 necessary to protect the legal interests of the state.

23 (3) **The restriction in subsection (2) of this section does not apply to investigators em-**
24 **ployed by or contracting with the Division of Child Support.**

25 **SECTION 8.** ORS 25.085 is amended to read:

26 25.085. (1) In any proceeding under ORS 25.080, service of legal documents upon an obligee may
27 be by regular mail to the address at which the obligee receives public assistance, to an address
28 provided by the obligee on the obligee's application for child support enforcement services or to any
29 other address given by the obligee. When service is authorized by regular mail under this section,
30 proof of service may be by notation upon the computerized case record made by the person making
31 the mailing. The notation [*shall*] **must** set forth the address to which the documents were mailed,
32 the date they were mailed, the description of the documents mailed and the name of the person
33 making the notation. If the documents are returned by the postal service as undeliverable as ad-
34 dressed, that fact [*shall*] **must** be noted on the computerized case record. If no new address for
35 service by regular mail can be obtained, service [*shall*] **must** be by certified mail, return receipt
36 requested, [*or*] by personal service upon the obligee, **or by any other mail service with delivery**
37 **confirmation.**

38 (2) Notwithstanding any other provision of this chapter or ORS chapter 110 or 416, when a case
39 is referred to this state by a public child support agency of another state for action in this state,
40 there is no requirement that an obligee, present in the initiating state and receiving child support
41 enforcement services from that state, be served in any action taken in this state as a consequence
42 of the interstate referral. In such cases the requirement to serve the obligee that would otherwise
43 apply is satisfied by sending to the initiating agency in the other state, by regular mail, any docu-
44 ments that would otherwise be served upon the obligee.

45 (3) The appropriate child support agency of the state shall make any mailings to or service upon

1 the obligee that is required by this section.

2 **SECTION 9.** ORS 25.333 is amended to read:

3 25.333. (1) When the enforcing agency issues a medical support notice under ORS 25.325, the
4 enforcing agency shall notify the parties by regular mail to the last known addresses of the parties:

5 (a) That the notice has been sent to the providing party's employer; and

6 (b) Of the providing party's rights and duties under the notice.

7 (2) A providing party may contest a medical support notice within [14] **30** days after the date
8 the premium is first withheld pursuant to the notice or, if the health benefit plan is provided at no
9 cost to the providing party, the date the first premium is paid by the employer.

10 (3) The only basis for contesting a medical support notice is a mistake of fact. A "mistake of
11 fact" means any of the following:

12 (a) No order to provide health care coverage under a health benefit plan has been issued in
13 regard to the providing party's child;

14 (b) The amount to be withheld for premiums is greater than is permissible under ORS 25.331;

15 (c) The alleged providing party is not the party from whom health care coverage is required;

16 or

17 (d) The providing party's income is equal to or less than Oregon minimum wage for full-time
18 employment.

19 (4) The providing party may contest the medical support notice by requesting an administrative
20 review. After receiving a request for review and within 45 days after the date the premium is first
21 withheld pursuant to the medical support notice, the enforcing agency shall determine, based on an
22 evaluation of the facts, whether the withholding for premiums may continue. The enforcing agency
23 shall inform the parties of the determination in writing and include information regarding the right
24 to appeal the determination.

25 (5) Any appeal of the enforcing agency's determination under subsection (4) of this section is to
26 the circuit court for a hearing under ORS 183.484.

27 (6) The initiation of proceedings to contest a medical support notice or an appeal of the en-
28 forcing agency's determination under this section does not stay the withholding of premiums.

29 **SECTION 10.** ORS 25.399 is amended to read:

30 25.399. (1) When an order to withhold is issued under ORS 25.378, the party or entity initiating
31 the action shall send notice of the order to withhold to the obligor and the obligee by regular mail
32 to the last-known addresses of the obligor and obligee. The notice [shall] **must** state:

33 (a) That withholding has commenced;

34 (b) The amount to be withheld and the amount of arrears, if any;

35 (c) That the order to withhold applies to any current or subsequent withholder or period of
36 employment;

37 (d) The procedures available for contesting the withholding and that the only basis for contest-
38 ing the withholding is a mistake of fact, which means an error in the amount of current support or
39 arrearages, or an error in the identity of the obligor;

40 (e) The availability of and requirements for exceptions to withholding;

41 (f) That the obligor has [14] **30** days from the date that the income is first withheld pursuant to
42 the order to withhold to contest the withholding; and

43 (g) The actions that will be taken if the obligor contests the withholding.

44 (2) The notice requirement of subsection (1) of this section may be met by mailing a copy of the
45 order to withhold, by regular mail, to the obligor and to the obligee.

1 **SECTION 11.** ORS 25.405 is amended to read:

2 25.405. (1) An obligor contesting an order to withhold issued under ORS 25.378 must do so within
3 [14] **30** days from the date income is first withheld pursuant to the order to withhold. The obligor
4 may not contest an order to withhold issued under ORS 25.378 (5).

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

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

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

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

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

16 (c) Registering the underlying withholding order in Oregon in the manner provided by ORS
17 110.405 and seeking relief from enforcement of the order as provided in ORS 110.417 and 110.420.

18 (5) If the order to withhold was issued pursuant to a request for enforcement under ORS 25.080,
19 the obligor may contest the order to withhold to the district attorney or the Division of Child Sup-
20 port. The district attorney or the Division of Child Support need not provide an opportunity for a
21 contested case administrative hearing under ORS chapter 183 or a hearing in circuit court. Within
22 45 days after the date income is first withheld pursuant to the order to withhold, the district at-
23 torney or the Division of Child Support shall determine, based on an evaluation of the facts, if the
24 withholding shall continue and notify the obligor of the determination and of the obligor’s right to
25 appeal the determination.

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

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

32 **SECTION 12.** ORS 25.670 is amended to read:

33 25.670. (1) Whenever there is a judgment for unpaid child or spousal support, a lien arises by
34 operation of law on any personal property owned by the obligor, and the lien continues until the
35 liability for the unpaid support is satisfied or the judgment or renewal thereof has expired. For
36 purposes of this section and ORS 25.680 and 25.690, liability for the unpaid support includes the
37 amount of unpaid support, with interest, and any costs that may be associated with lawful execution
38 on the lien including, but not limited to, attorney fees, costs of notice and sale, storage and handling.

39 (2)(a) A lien arising under subsection (1) of this section may be recorded by filing a written
40 notice of claim of lien with the county clerk of the county in which the obligor resides or the
41 property is located. The notice of claim of lien required under this subsection shall be a written
42 statement and must include:

43 (A) A statement of the total amount due, as of the date of the filing of the notice of claim of lien;

44 (B) The name and address of the obligor and obligee;

45 (C) The name and address of the office of the district attorney, Division of Child Support or

1 other person or entity filing the notice;

2 (D) A statement identifying the county where the underlying support order was entered and its
3 case number;

4 (E) A description of the personal property to be charged with the lien sufficient for identifica-
5 tion; and

6 (F) A statement of the date the lien expires under the laws of the issuing state. If no expiration
7 date is provided, the lien expires in Oregon five years from the date of recording.

8 (b) The county clerk shall record the notice of claim of lien filed under paragraph (a) of this
9 subsection in the County Clerk Lien Record.

10 (3)(a) When a notice of claim of lien is recorded pursuant to subsection (2) of this section, the
11 person or entity filing the notice of claim of lien shall send forthwith a copy of the notice to the
12 owner of the personal property to be charged with the lien by registered or certified mail, **or by**
13 **any other mail service with delivery confirmation**, sent to the owner's last-known address.

14 (b) A copy of the notice [shall] **must** also be sent to the obligee by regular mail.

15 (4) Liens described in subsection (1) of this section that arise by operation of law in another
16 state [shall] **must** be accorded full faith and credit if the state agency, party or other entity seeking
17 to enforce the lien follows the applicable procedures for recording and service of notice of claim of
18 lien set forth in this section. A state agency, party or other entity may not file an action to enforce
19 a lien described in this section until the underlying judgment has been filed in Oregon as provided
20 in ORS chapter 110.

21 **SECTION 13.** ORS 25.321 is amended to read:

22 25.321. As used in ORS 25.321 to 25.343:

23 (1) "Cash medical support" means an amount that a parent is ordered to pay to defray the cost
24 of health care coverage provided for a child by the other parent **or a public body**, or to defray
25 uninsured medical expenses of the child.

26 (2) "Child support order" means a judgment or administrative order that creates child support
27 rights and that is entered or issued under ORS 416.400 to 416.465, 419B.400 or 419C.590 or this
28 chapter or ORS chapter 107, 108, 109 or 110.

29 (3) "Employee health benefit plan" means a health benefit plan that is available to a providing
30 party by reason of the providing party's employment.

31 (4) "Enforcing agency" means the administrator.

32 (5) "Health benefit plan" means any policy or contract of insurance, indemnity, subscription or
33 membership issued by an insurer, including health care coverage provided by a public body, and any
34 self-insured employee benefit plan that provides coverage for medical expenses.

35 (6) "Health care coverage" means providing and paying for the medical needs of a child through
36 a policy or contract of insurance, indemnity, subscription or membership issued by an insurer, in-
37 cluding medical assistance provided by a public body, and any self-insured employee benefit plan
38 that provides coverage for medical expenses.

39 (7) "Medical support" means cash medical support and health care coverage.

40 (8) "Medical support clause" means a provision in a child support order that requires one or
41 both of the parents to provide medical support for the child.

42 (9) "Medical support notice" means a notice in the form prescribed under ORS 25.325 (5).

43 (10) "Plan administrator" means:

44 (a) The employer, union or other provider that offers a health benefit plan; or

45 (b) The person to whom, under a written agreement of the parties, the duty of plan administrator

1 is delegated by the employer, union or other provider that offers a health benefit plan.

2 (11) "Private health care coverage" means all health care coverage other than medical assist-
3 ance provided by a public body.

4 (12) "Providing party" means a party to a child support order who has been ordered by the court
5 or the enforcing agency to provide medical support.

6 (13) "Public body" has the meaning given that term in ORS 174.109.

7 **SECTION 14.** ORS 25.759 is amended to read:

8 25.759. Upon identification of a person subject to suspension under ORS 25.750 to 25.783, the
9 administrator may issue a notice, sent by regular mail to both the address of record as shown in the
10 records of the issuing entity and the address of record as shown on the administrator's child support
11 file. Such notice shall contain the following information:

12 (1) That certain licenses, certificates, permits and registrations, which shall be specified in the
13 notice, are subject to suspension as provided for by ORS 25.750 to 25.783.

14 (2) The name, **final four digits of the** Social Security number, if available, date of birth, if
15 known, and child support case number or numbers of the person subject to the action.

16 (3) The amount of arrears and the amount of the monthly child support obligation, if any, or, if
17 suspension is based on ORS 25.750 (1)(b), a description of the subpoena or other procedural order
18 with which the person subject to the action has failed to comply.

19 (4) The procedures available for contesting the suspension of a license, certificate, permit or
20 registration.

21 (5) That the only bases for contesting the suspension are:

22 (a) That the arrears are not greater than three months of support or \$2,500;

23 (b) That there is a mistake in the identity of the obligor;

24 (c) That the person subject to the suspension has complied with the subpoena or other proce-
25 dural order identified in subsection (3) of this section; or

26 (d) That the person subject to the suspension is in compliance with a previous agreement as
27 provided for by ORS 25.750 to 25.783.

28 (6) That the obligor may enter into an agreement, prescribed by rule by the Department of
29 Justice, compliance with which shall preclude the suspension under ORS 25.750 to 25.783.

30 (7) That the obligor has 30 days from the date of the notice to contact the administrator in order
31 to:

32 (a) Contest the action in writing on a form prescribed by the administrator;

33 (b) Comply with the subpoena or procedural order identified in subsection (3) of this section; or

34 (c) Enter into an agreement authorized by ORS 25.750 and 25.762. The notice shall state that
35 any agreement must be in writing and must be entered into within 30 days of making contact with
36 the administrator.

37 (8) That failure to contact the administrator within 30 days of the date of the notice shall result
38 in notification to the issuing entity to suspend the license, certificate, permit or registration.

39 **SECTION 15.** ORS 25.015 is amended to read:

40 25.015. (1) The Department of Justice shall notify the parties to a support order that payment
41 is to commence on the first due date following the date of the notice when:

42 (a) The department receives a copy of a support order of a court that requires payments to be
43 made through the department or for which there is an application for support enforcement services;

44 (b) The department commences accounting services; and

45 (c) The order has been entered within the previous 180 days.

1 (2) The department shall include in the notice under subsection (1) of this section a statement
2 that *[no later than 60 days after the date of the notice]* the department *[shall]* **will** adjust the account
3 to reflect an accrued arrearage for the period of time between the effective date of the order and
4 the date of the notice unless, **within 30 days after the date of the notice**, a party requests that
5 the department establish the arrearage on the account as provided in ORS 25.167 or 416.429.

6 (3) If, within *[60]* **30** days after the date of the notice under subsection (1) of this section, a party
7 requests the department to establish the arrearage as provided in ORS 25.167 or 416.429, the de-
8 partment may not reflect an accrued arrearage on the account until the arrearage has been estab-
9 lished.

10 (4) If a party does not request the department to establish the arrearage as provided in sub-
11 section (3) of this section, the department shall adjust the account to reflect the arrearage for the
12 period of time between the effective date of the order and the date of the notice.

13 **SECTION 16.** ORS 416.448 is amended to read:

14 416.448. (1) As used in this section:

15 (a) “Child support judgment” has the meaning given that term in ORS 25.089.

16 (b) “Governing child support judgment” has the meaning given that term in ORS 25.091.

17 (2) Notwithstanding any other provision of this section or ORS 25.089, when two or more child
18 support judgments exist involving the same obligor and child, and when one or more of the judg-
19 ments was issued by a tribunal of another state, the administrator shall apply the provisions of ORS
20 chapter 110 before enforcing or modifying a child support judgment under this section or ORS
21 25.089.

22 (3) When the administrator finds that two or more child support judgments exist involving the
23 same obligor and child and the same period, and each child support judgment was issued in this
24 state:

25 (a) The administrator may petition the court for the county where a child who is subject to the
26 judgments resides for a governing child support judgment under ORS 25.091; or

27 (b) The administrator may apply the presumption described in ORS 25.091, determine the con-
28 trolling terms of the child support judgments and issue a proposed governing child support order
29 and notice to the parties in the manner prescribed by rules adopted by the Department of Justice
30 under ORS 416.455. The proposed governing child support order must include all of the information
31 described in ORS 25.091 (8). The administrator shall serve the proposed governing child support or-
32 der and notice in the manner provided in ORS 416.425. The notice must include a statement that the
33 proposed governing child support order shall become final unless a written objection is made to the
34 administrator within *[60]* **30** days after service of the proposed governing child support order and
35 notice.

36 (4) If the administrator receives a timely written objection to a proposed governing child support
37 order issued under subsection (3)(b) of this section, the administrator shall certify the matter to the
38 court for the county where a child who is subject to the judgments resides for a governing child
39 support judgment under ORS 25.091.

40 (5) If the administrator does not receive a timely written objection to a proposed governing child
41 support order issued under subsection (3)(b) of this section, the governing child support order is
42 final. The administrator shall certify the governing child support order to a court for review and
43 approval under ORS 416.425 (10). The governing child support order is not effective until reviewed
44 and approved by the court. If the court approves the governing child support order, the governing
45 child support order becomes the governing child support judgment upon filing as provided in ORS

1 416.440.

2 (6) When a governing child support judgment is entered as described in ORS 416.440, the non-
3 controlling terms of each earlier child support judgment are terminated. However, subject to sub-
4 section (7) of this section, the entry of a governing child support judgment does not affect any
5 support payment arrearage or any liability related to medical support, as defined in ORS 25.321, that
6 has accrued under a child support judgment before the governing child support judgment is entered.

7 (7) For purposes of reconciling any child support arrears or credits under all of the child support
8 judgments, amounts collected and credited for a particular period under one child support judgment
9 must be credited against the amounts accruing or accrued for the same period under any other child
10 support judgment.

11 (8) Not sooner than 30 days and not later than 60 days after entry of the governing child support
12 judgment, the administrator shall file a certified copy of the governing child support judgment with
13 each court that issued an earlier child support judgment. A failure to file does not affect the validity
14 or enforceability of the governing child support judgment.

15 (9) When an administrative law judge finds that two or more child support judgments exist in-
16 volving the same obligor and child and the same period, and each child support judgment was issued
17 in this state, the administrative law judge shall remand the matter to the administrator to follow the
18 provisions of subsection (3) of this section.

19 **SECTION 17. The amendments to ORS 25.015, 25.084, 25.085, 25.167, 25.245, 25.321, 25.323,**
20 **25.333, 25.399, 25.405, 25.670, 25.759, 180.260, 416.415, 416.429 and 416.448 by sections 1 to 16 of**
21 **this 2011 Act apply to support enforcement proceedings pending before, on or after the ef-**
22 **fective date of this 2011 Act.**

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