

House Bill 3333

Sponsored by Representative NATHANSON (at the request of Lane County District Attorney's Office)

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**.

Requires Department of Justice to enter into cooperative agreement with district attorney that requests assumption of duties, responsibilities and functions of Division of Child Support to extent district attorney will provide more effective and cost-efficient support enforcement services in county.

A BILL FOR AN ACT

1
2 Relating to support enforcement services; amending ORS 25.080.

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

4 **SECTION 1.** ORS 25.080 is amended to read:

5 25.080. (1) The following entity is primarily responsible for providing the support enforcement
6 services described in subsection (4) of this section when an application as described in ORS 25.084
7 is made, or when an assignment of support rights is made to the state:

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

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

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

13 (b) Except as provided in subsection (6) of this section, the district attorney in cases other than
14 those described in paragraph (a) of this subsection if an application as described in ORS 25.084 is
15 made by the obligee, by the obligor, by a person having physical custody of a minor child or by a
16 child attending school, as defined in ORS 107.108.

17 (2) The provisions of this section apply to support enforcement services for any order or judg-
18 ment that is or could be entered under ORS 419B.400 or 419C.590 or ORS chapter 107, 108, 109, 110
19 or 416. The entity specified in subsection (1) of this section shall provide the support enforcement
20 services on behalf of the State of Oregon and not on behalf of any other party or on behalf of a
21 parent. The Department of Justice shall adopt rules addressing the provision of support enforcement
22 services when the purposes of the state in providing those services may be contradictory in indi-
23 vidual cases.

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

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

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 (a) Shall establish and enforce any child support obligation;
- 2 (b) Shall establish paternity;
- 3 (c) Shall enforce spousal support when the obligee is living with the obligor's child for whom
4 support enforcement services are being provided and those services are funded in part by federal
5 moneys;
- 6 (d) May enforce any other order or judgment for spousal support;
- 7 (e) Shall, on behalf of the state, initiate and respond to child support modification proceedings
8 based upon a substantial change of circumstances;
- 9 (f) Shall, on behalf of the state, initiate and respond to child support modification proceedings
10 based upon a modification conducted under ORS 25.287 concerning existing child support orders;
- 11 (g) Shall establish and enforce obligations to provide medical insurance coverage for dependent
12 children;
- 13 (h) Shall ensure compliance with the provisions of 42 U.S.C. 651 to 669 and 45 C.F.R. Chapter
14 III as authorized by state law;
- 15 (i) Shall carry out the policy of the State of Oregon regarding child support obligations as ex-
16 pressed in ORS 416.405; and
- 17 (j) Shall ensure that child support orders are in compliance with the formula established by this
18 chapter.
- 19 (5) In any proceeding under subsection (4) of this section, the parties are those described in ORS
20 416.407.
- 21 (6)(a) The district attorney of any county and the department may provide by agreement for
22 assumption by the Division of Child Support of the functions of the district attorney under sub-
23 section (1) of this section or for redistribution between the district attorney and the Division of
24 Child Support of all or any portion of the duties, responsibilities and functions set forth in sub-
25 sections (1) and (4) of this section.
- 26 **(b) Upon request of the district attorney of any county to assume all or any portion of**
27 **the duties, responsibilities and functions of the Division of Child Support under paragraph**
28 **(a) of this subsection in the county, the department shall enter into a cooperative agreement**
29 **with the requesting district attorney providing that the district attorney shall assume all or**
30 **a portion of the duties, responsibilities and functions of the Division of Child Support under**
31 **paragraph (a) of this subsection to the extent that the district attorney will provide more**
32 **effective and cost-efficient support enforcement services. In determining the support**
33 **enforcement services that the district attorney will assume under this paragraph, consider-**
34 **ation shall be given to the extent to which the district attorney will:**
- 35 **(A) Increase collection rates in the county;**
- 36 **(B) Provide more cost-effective and equitable enforcement of support obligations in the**
37 **county;**
- 38 **(C) Increase performance incentives;**
- 39 **(D) Perform higher on federal performance measures;**
- 40 **(E) Obtain more successful judicial enforcement outcomes; and**
- 41 **(F) Deliver more effective and cost-efficient support enforcement services.**
- 42 (7) All county governing bodies and all district attorneys shall enter into child support cooper-
43 ative agreements with the department. The following apply to this subsection:
- 44 (a) The agreements shall contain appropriate terms and conditions sufficient for the state to
45 comply with all child support enforcement service requirements under federal law; and

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

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

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

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

16 (9) The district attorney or the Division of Child Support, whichever is appropriate, shall pro-
17 vide the services specified in subsections (1) and (4) of this section to any applicant, but may in their
18 discretion, upon a determination and notice to the applicant that the prospect of successful recovery
19 from the obligor of a portion of the delinquency or future payments is remote, require payment to
20 the district attorney or the Division of Child Support of an application fee, in accordance with an
21 application fee schedule established by rule by the department. If service performed results in the
22 district attorney or the Division of Child Support recovering any support enforcement fees, the fees
23 shall be paid to the applicant in an amount equal to the amount of the application fee.

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

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