

A-Engrossed
House Bill 3156

Ordered by the House April 6
Including House Amendments dated April 6

Sponsored by COMMITTEE ON JUDICIARY

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.

Changes circumstances under which enforcement of child support order may be suspended. **Adds ground on which obligee may object to suspension of enforcement of child support order.**

A BILL FOR AN ACT

1
2 Relating to enforcement of child support orders; amending ORS 25.125.

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

4 **SECTION 1.** ORS 25.125 is amended to read:

5 25.125. (1) The Department of Justice may return moneys to an obligor when the department
6 determines that the obligor has paid more moneys than are due under a support obligation. How-
7 ever, when the obligor has an ongoing support obligation, the department may give the obligor
8 credit for the excess amount paid and apply the credit to the future support obligation until the
9 credit is fully used. When the department applies a credit to offset a future support obligation, the
10 department shall so notify the obligee. The notice must inform the obligee that, if the obligee re-
11 quests, the department will conduct an administrative review to determine if the record keeping and
12 accounting related to the calculation of the credit balance is correct. The department shall conduct
13 the administrative review within 30 days after receiving the request.

14 (2) An overpayment in favor of the state is created when the Department of Justice, under ORS
15 25.020, has transmitted moneys received from an obligor to an obligee or a collection agency, a child
16 support agency of another state or an agency of this state and:

17 (a) The amount transmitted is more than the support obligation requires and the Department
18 of Justice has returned the excess to the obligor under subsection (1) of this section;

19 (b) The Department of Justice has misapplied moneys received; or

20 (c) The amount transmitted is attributable in whole or in part to a tax refund offset collection
21 all or part of which has been taken back by the Internal Revenue Service or the Department of
22 Revenue.

23 (3)(a) The obligee or the agency to whom the moneys were transmitted owes the amount of the
24 overpayment to the state. The Department of Justice shall:

25 (A) Attempt to recover the overpayment if it is cost-effective to do so;

26 (B) Notify the obligee or the agency to whom the overpayment was made that the obligee or
27 agency owes money to the state and specify the amount of the overpayment to be returned to the
28 department; and

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 (C) Give the obligee opportunity to object.

2 (b) If the obligee does not file a timely written objection, the overpayment amount determined
3 by the department is final and the provisions of subsection (4) of this section apply. If the depart-
4 ment does not resolve an objection to an obligee's satisfaction, an administrative law judge assigned
5 from the Office of Administrative Hearings shall hear the objection. An order by the administrative
6 law judge is final. An obligee may appeal the decision of an administrative law judge to the circuit
7 court for a hearing de novo.

8 (c) Notwithstanding paragraph (a) of this subsection, if an agency of this or another state owes
9 the overpayment, the agency shall return the amount of the overpayment to the department without
10 notice and opportunity to object.

11 (4) The amount of the overpayment specified in subsection (3)(a) of this section is a liquidated
12 debt and a delinquent amount owed to the state. The Department of Justice may recover the debt
13 by obtaining from the obligee a voluntary assignment of a portion of future support payments to be
14 applied to the debt or in any other way permitted by law.

15 (5)(a) In addition to the debt created under subsection (2) of this section, a debt in favor of the
16 state is created when:

17 (A) The Department of Justice receives a check for support amounts due from an obligor or
18 withholder subject to an order to withhold under this chapter;

19 (B) The Department of Justice transmits the amount to the obligee, a child support agency of
20 another state or an agency of this state; and

21 (C) The check is dishonored.

22 (b) When a debt is created under paragraph (a) of this subsection, the obligor or withholder who
23 presented the check owes the amount of money specified on the check to the state.

24 (c) The Department of Justice shall:

25 (A) Attempt to recover the debt if it is cost-effective to do so;

26 (B) Notify the obligor or withholder who presented the check that the obligor or withholder
27 owes the money to the state; and

28 (C) Specify the amount of the debt to be paid to the department.

29 (d) The amount of the debt specified in paragraph (c) of this subsection is a liquidated debt and
30 a delinquent amount owed to the state. The Department of Justice may recover the debt in any way
31 permitted under law.

32 (6)(a) When [*a motion has been filed*] **an action is pending** to terminate, vacate or set aside a
33 support order or to modify a support order because of a change in physical custody of the child, the
34 administrator may suspend enforcement of the support order if:

35 (A) Collection of support would result in a credit balance if the motion were granted; [*and*] **or**
36 [*(B) The obligee does not object to suspending enforcement of the support order.*]

37 **(B) Collection of child support would impair the ability of the obligor with physical cus-**
38 **tody of all of the parties' children to provide direct support to the children.**

39 (b) The obligee may object, within 14 days after the date of the notice of intent to suspend
40 enforcement of the support order, only on the grounds that:

41 (A) The child is not in the physical custody of the obligor;

42 (B) The child is in the physical custody of the obligor without the consent of the obligee; or

43 [*(C) A credit balance would not result if the motion were granted.*]

44 **(C) The basis for the suspension of enforcement is factually incorrect.**

45 (c) A party may appeal the administrator's decision to suspend or not to suspend enforcement

1 of the support order under ORS 183.484.

2 (d) As used in this subsection, "credit balance" means that payments have been made in excess
3 of all amounts owed by an obligor for ongoing and past due child support.

4 (7) The Department of Justice shall adopt rules to carry out the provisions of this section.

5
