

DRAFT

SUMMARY

Modernizes certain provisions regarding support order enforcement.

A BILL FOR AN ACT

1
2 Relating to support order enforcement; amending ORS 25.010, 25.020, 25.084,
3 25.125, 25.166, 25.220, 25.247, 25.260, 25.287, 25.640, 25.790, 107.108, 107.135
4 and 416.429.

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

6 **SECTION 1.** ORS 25.010 is amended to read:

7 25.010. As used in ORS chapters 25, 107, 109 and 416 and any other stat-
8 utes providing for support payments or support enforcement procedures, un-
9 less the context requires otherwise:

10 (1) “Administrator” means either the Administrator of the Division of
11 Child Support of the Department of Justice or a district attorney, or the
12 administrator’s or a district attorney’s authorized representative.

13 (2) “Child” has the meaning given that term in ORS 110.503.

14 (3) “Child support rights” means the right to establish or enforce an ob-
15 ligation imposed or imposable by law to provide support, including but not
16 limited to medical support as defined in ORS 25.321 and an unsatisfied obli-
17 gation to provide support.

18 (4) “Department” means the Department of Justice.

19 (5) “Disposable income” means that part of the income of an individual
20 remaining after the deduction from the income of any amounts required to
21 be withheld by law except laws enforcing spousal or child support and any
22 amounts withheld to pay medical or dental insurance premiums.

1 (6) "Employer" means any entity or individual who engages an individual
2 to perform work or services for which compensation is given in periodic
3 payments or otherwise.

4 (7) "Income" is any monetary obligation in excess of \$4.99 after the fee
5 described in ORS 25.414 (6) has been deducted that is in the possession of a
6 third party owed to [*an obligor*] **a person** and includes but is not limited to:

7 (a) Compensation paid or payable for personal services whether denomi-
8 nated as wages, salary, commission, bonus or otherwise;

9 (b) Periodic payments pursuant to a pension or retirement program;

10 (c) Cash dividends arising from stocks, bonds or mutual funds;

11 (d) Interest payments;

12 (e) Periodic payments from a trust account;

13 (f) Any program or contract to provide substitute wages during times of
14 unemployment or disability;

15 (g) Any payment pursuant to ORS chapter 657; or

16 (h) Amounts payable to independent contractors.

17 (8) "Obligee" has the meaning given that term in ORS 110.503.

18 (9) "Obligor" has the meaning given that term in ORS 110.503.

19 (10) "Order to withhold" means an order or other legal process that re-
20 quires a withholder to withhold support from the income of an obligor.

21 (11) "Public assistance" has the meaning given that term in ORS 416.400.

22 (12) "Withholder" means any person who disburses income and includes
23 but is not limited to an employer, conservator, trustee or insurer of the
24 obligor.

25 **SECTION 2.** ORS 25.020 is amended to read:

26 25.020. (1) Support payments for or on behalf of any person that are or-
27 dered, registered or filed under this chapter or ORS chapter 107, 108, 109, 110,
28 416, 419B or 419C, unless otherwise authorized by ORS 25.030, shall be made
29 to the Department of Justice as the state disbursement unit:

30 (a) During periods for which support is assigned under ORS 412.024,
31 418.032, 419B.406 or 419C.597;

1 (b) As provided by rules adopted under ORS 180.345, when public assist-
2 ance is provided to a person who receives or has a right to receive support
3 payments on the person's own behalf or on behalf of another person;

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

6 (d) For any period during which support enforcement services are pro-
7 vided under ORS 25.080;

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

9 (f) When a support order that is entered or modified on or after January
10 1, 1994, includes a provision requiring the obligor to pay support by income
11 withholding; or

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

14 (2)(a) The Department of Justice shall disburse payments, after lawful
15 deduction of fees and in accordance with applicable statutes and rules, to
16 those persons and entities that are lawfully entitled to receive such pay-
17 ments.

18 (b) During a period for which support is assigned under ORS 412.024, for
19 an obligee described in subsection (1)(b) of this section, the department shall
20 disburse to the obligee, from child support collected each month, \$50 for each
21 child up to a maximum of \$200 per family.

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

26 (b) The collection agency:

27 (A) May provide investigative and location services to the obligee and
28 disclose relevant information from those services to the administrator for
29 purposes of providing support enforcement services under ORS 25.080;

30 (B) May not charge interest or a fee for its services exceeding 29 percent
31 of each support payment received unless the collection agency, if allowed by

1 the terms of the agreement between the collection agency and the obligee,
2 hires an attorney to perform legal services on behalf of the obligee;

3 (C) May not initiate, without written authorization from the administra-
4 tor, any enforcement action relating to support payments on which support
5 enforcement services are provided by the administrator under ORS 25.080;
6 and

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

10 (c) The administrator may use information disclosed by the collection
11 agency to provide support enforcement services under ORS 25.080.

12 (4) The Department of Justice may immediately transmit to the obligee
13 payments received from any obligor without waiting for payment or clear-
14 ance of the check or instrument received if the obligor has not previously
15 tendered any payment by a check or instrument that was not paid or was
16 dishonored.

17 (5) The Department of Justice shall notify each obligor and obligee by
18 mail when support payments shall be made to the department and when the
19 obligation to make payments in this manner shall cease.

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

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

25 (B) Amount of the support order.

26 (C) Dates and amounts of payments.

27 (D) Dates and amounts of disbursements.

28 (E) Payee of any disbursements.

29 (F) Amount of any arrearage.

30 (G) Source of any collection, to the extent allowed by federal law.

31 (b) Nothing in this subsection limits the information the administrator

1 may provide by law to a party who is not represented by an attorney.

2 (7) Any pleading for the entry or modification of a support order must
3 contain a statement that payment of support under a new or modified order
4 will be by income withholding unless an exception to payment by income
5 withholding is granted under ORS 25.396.

6 (8)(a) Except as provided in paragraphs (d) and (e) of this subsection, a
7 judgment or order establishing parentage or including a provision concerning
8 support must contain:

9 (A) The residence, mailing or contact address, final four digits of the So-
10 cial Security number, telephone number and final four digits of the driver
11 license number of each party;

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

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

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

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

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

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

26 (c) The administrator may require of the parties any additional informa-
27 tion that is necessary for the provision of support enforcement services under
28 ORS 25.080.

29 (d)(A) Upon a finding, which may be made ex parte, that the health, safety
30 or liberty of a party or child would unreasonably be put at risk by the dis-
31 closure of information specified in this subsection or by the disclosure of

1 other information concerning a child or party to a parentage or support
2 proceeding or if an existing order so requires, a court or administrator or
3 administrative law judge, when the proceeding is administrative, shall order
4 that the information not be contained in any document provided to another
5 party or otherwise disclosed to a party other than the state.

6 (B) The Department of Justice shall adopt rules providing for similar
7 confidentiality for information described in subparagraph (A) of this para-
8 graph that is maintained by an entity providing support enforcement services
9 under ORS 25.080.

10 (e) The Chief Justice of the Supreme Court may, in consultation with the
11 Department of Justice, adopt rules under ORS 1.002 to designate information
12 specified in this subsection as confidential and require that the information
13 be submitted through an alternate procedure to ensure that the information
14 is exempt from public disclosure under ORS 192.355.

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

21 (b) Service of an order directing an obligor to appear in a contempt pro-
22 ceeding is subject to ORS 33.015 to 33.155.

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

28 (11) Except as provided for in subsections (12), (13) and (14) of this sec-
29 tion, credit may not be given for payments not made to the Department of
30 Justice as required under subsection (1) of this section.

31 (12)(a) The Department of Justice shall give credit for payments not made

1 to the department:

2 [(a)] (A) When payments are not assigned to this or another state and the
3 [obligee] **party to whom unpaid support is owed** and **the** obligor agree in
4 writing that specific payments were made and should be credited[, *limited to*
5 *the current balance owed to the obligee*];

6 [(b)] (B) When payments are assigned to another state and that state
7 verifies that payments not paid to the department were received by the other
8 state; or

9 [(c)] (C) As provided by rule adopted under ORS 180.345.

10 (b) **The credit under this subsection may not exceed the current**
11 **unpaid balance of support owed to the party that has agreed in writing**
12 **that payments were made and should be credited.**

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

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

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

31 (a) Direct how support payments that are made through or credited by the

1 department are to be applied and, if applicable, disbursed; and

2 (b) Are consistent with federal regulations.

3 **SECTION 3.** ORS 25.084 is amended to read:

4 25.084. (1) The administrator may provide support enforcement services
5 as described in ORS 25.080 only if support rights have been assigned to the
6 state or if a person has provided a written application to the administrator
7 that:

8 (a) Is signed by the person; **and**

9 *[(b) Includes the last-known addresses of the obligor and the obligee; and]*

10 *[(c)]* (b) Indicates that the person is applying for child support services.

11 (2) Any support judgment that provides for payment to the Department
12 of Justice under ORS 25.020 may have an application incorporated in the
13 judgment.

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

15 25.125. (1) The Department of Justice may return moneys to an obligor
16 when the department determines that the obligor has paid more moneys than
17 are due under a support obligation. However, when the obligor has an on-
18 going support obligation, the department may give the obligor credit for the
19 excess amount paid and apply the credit to the future support obligation
20 until the credit is fully used. When the department applies a credit to offset
21 a future support obligation, the department shall so notify the obligee. The
22 notice must inform the obligee that, if the obligee requests, the department
23 will conduct an administrative review to determine if the record keeping and
24 accounting related to the calculation of the credit balance is correct. The
25 department shall conduct the administrative review within 30 days after re-
26 ceiving the request.

27 (2) An overpayment in favor of the state is created when the Department
28 of Justice, under ORS 25.020, has transmitted moneys received from, or on
29 behalf of, any person or entity, including but not limited to an obligor, an
30 obligee *[or a collection agency]*, a child support agency of another state or
31 an agency of this state, and:

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

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

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

8 (3)(a) The person or entity to which the moneys were transmitted owes
9 the amount of the overpayment to the state. The Department of Justice shall:

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

11 (B) Notify the person or entity to whom the overpayment was made that
12 the person or entity owes money to the state and specify the amount of the
13 overpayment to be returned to the department; and

14 (C) Give the person or entity opportunity to object.

15 (b) If the person or entity does not file a timely written objection, the
16 overpayment amount determined by the department becomes a liquidated
17 debt and creates an account receivable owed to the department, and the
18 provisions of subsection (4) of this section apply. If the department does not
19 resolve an objection to the person's or entity's satisfaction, an administrative
20 law judge assigned from the Office of Administrative Hearings shall hear the
21 objection. An order by the administrative law judge becomes a liquidated
22 debt and creates an account receivable owed to the department. The person
23 or entity may appeal the decision of an administrative law judge to the cir-
24 cuit court for a hearing de novo.

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

29 (4)(a) The amount of the overpayment specified in subsection (3)(a) of this
30 section is a liquidated debt owed to the state and an associated account
31 receivable. The Department of Justice may recover the debt by obtaining

1 from the obligee a voluntary assignment of a portion of future support pay-
2 ments to be applied to the account receivable or in any other way permitted
3 by law.

4 (b) Accounts receivable are considered delinquent for purposes of this
5 subsection and are subject to the provisions of ORS chapter 293 if:

6 (A) The person or entity fails to make full payment within 90 days of
7 liquidation; or

8 (B) A period of 90 days elapses without a payment as required by a pay-
9 ment agreement between the department and the obligated person or entity.

10 (5)(a) In addition to the account receivable created under subsection (2)
11 of this section, a debt in favor of the state and an associated account
12 receivable are created when:

13 (A) The Department of Justice receives payment for support amounts due
14 from an obligor, a withholder subject to an order to withhold under this
15 chapter or another issuer on behalf of an obligor;

16 (B) The Department of Justice transmits the amount to any other person
17 or entity; and

18 (C) The payment is dishonored or reversed.

19 (b) When a debt is created under paragraph (a) of this subsection, the
20 amount of money specified in the payment is owed to the state, and the de-
21 partment may collect the debt from one of the following:

22 (A) The obligor, regardless of who presented the check.

23 (B) The withholder, if the withholder presented the check.

24 (C) The other issuer, if another issuer presented the check.

25 (D) The person or entity to which the amount was transmitted by the
26 department.

27 (c) The Department of Justice shall:

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

29 (B) Notify the obligor, withholder or other issuer who made the payment
30 that the person or entity owes the money to the state; and

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

1 (d) The amount of the debt specified in paragraph (c) of this subsection
2 is a liquidated debt owed to the state and an account receivable. The De-
3 partment of Justice may recover the debt and collect on the account receiv-
4 able in any way permitted under law.

5 (e) Accounts receivable are considered delinquent for purposes of this
6 subsection and are subject to the provisions of ORS chapter 293 when:

7 (A) The person or entity fails to make full payment within 90 days of
8 liquidation; or

9 (B) A period of 90 days elapses without a payment as required by a pay-
10 ment agreement between the department and the obligated person or entity.

11 (6)(a) When an action is pending to terminate, vacate or set aside a sup-
12 port order or to modify a support order because of a change in physical
13 custody of the child, the administrator may suspend enforcement of the sup-
14 port order if:

15 (A) Collection of support would result in a credit balance if the motion
16 were granted; or

17 (B) Collection of child support would impair the ability of the obligor
18 with physical custody of all of the parties' children to provide direct support
19 to the children.

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

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

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

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

26 (c) A party may appeal the administrator's decision to suspend or not to
27 suspend enforcement of the support order under ORS 183.484.

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

31 (7) The Department of Justice shall adopt rules to carry out the pro-

1 visions of this section.

2 **SECTION 5.** ORS 25.166 is amended to read:

3 25.166. (1) Any court order or administrative order issued or modified in
4 a proceeding under ORS chapter 107, 108, 109, 110, 416, 419B or 419C that
5 contains an order for the payment of child support or spousal support must
6 specify an initial due date and year for the payment of support that is on the
7 first day of a calendar month, with subsequent payments due on the first day
8 of each subsequent month for which the support is payable.

9 (2) For purposes of support enforcement, any support payment that be-
10 comes due and payable on a day other than the first day of the month in
11 which the payment is due shall be enforceable by income withholding as of
12 the first day of that month.

13 (3) Any court order or administrative order that contains an award of
14 child, medical or spousal support that accrues on other than a monthly basis
15 may, for income withholding and administrative support billing purposes
16 only, be converted to a monthly amount.

17 (4) Support payments become delinquent only if not paid in full within
18 one month of the payment due date. A monthly child support obligation that
19 is to be paid in two or more installments does not become delinquent until
20 the obligation is not paid in full by the due date for the first installment in
21 the next month. **This subsection does not apply to the accrual of in-**
22 **terest under ORS 82.010.**

23 (5) Subsections (2) and (3) of this section do not apply to the determi-
24 nation or issuance of support arrearage liens, installment arrearage liens,
25 judgment liens, writs of garnishment or any other action or proceeding that
26 affects property rights under ORS chapter 18.

27 **SECTION 6.** ORS 25.220 is amended to read:

28 25.220. (1) In any proceeding to establish, enforce or modify a support
29 obligation, extrinsic evidence of authenticity is not required as a condition
30 precedent to the admission of a computer [*printout*] **record** of the adminis-
31 trator that may reflect the employment records of a parent, the support

1 payment record of an obligor, the payment of public assistance, the amounts
2 paid, the period during which public assistance was paid, the persons re-
3 ceiving or having received assistance and any other pertinent information,
4 if the [*printout*] **record** bears a seal purporting to be that of the adminis-
5 trator and is certified as a true copy by original, **electronic** or facsimile
6 signature of a person purporting to be an officer or employee of the admin-
7 istrator. [*Printouts*] **Records** certified in accordance with this section con-
8 stitute prima facie evidence of the existence of the facts stated therein.

9 (2) To the extent permitted under federal and state law, obligors and
10 obligees, and their attorneys, may obtain copies of such [*printouts*] **records**
11 upon request made to the administrator.

12 **SECTION 7.** ORS 25.247 is amended to read:

13 25.247. (1) An obligor who is incarcerated for a period of 180 or more
14 consecutive days shall be rebuttably presumed unable to pay child support
15 and a child support obligation does not accrue for the duration of the in-
16 carceration unless the presumption is rebutted as provided in this section
17 **or as determined by the court.**

18 (2) The Department of Justice and the Department of Corrections shall
19 enter into an agreement to conduct data matches to identify the obligors
20 described in subsection (1) of this section [*or as determined by the court*].

21 (3) Within 30 days following identification of an obligor described in
22 subsection (1) of this section whose child support obligation has not already
23 been modified due to incarceration, the entity responsible for support
24 enforcement services under ORS 25.080 shall provide notice of the
25 presumption to the obligee and obligor and shall inform all parties to the
26 support order that, unless a party objects as provided in subsection (4) of this
27 section, child support shall cease accruing beginning with the first day of
28 the first month that follows the obligor becoming incarcerated for a period
29 of at least 180 consecutive days and continuing through the support payment
30 due in the last month prior to the reinstatement of the support order as
31 provided in subsection (6) of this section. The entity shall serve the notice

1 on the obligee in the manner provided for the service of summons in a civil
2 action, by certified mail, return receipt requested, or by any other mail ser-
3 vice with delivery confirmation and shall serve the notice on the obligor by
4 first class mail to the obligor's last-known address. The notice shall specify
5 the month in which the obligor became incarcerated and shall contain a
6 statement that the administrator represents the state and that low-cost legal
7 counsel may be available.

8 (4) A party may object to the presumption by sending an objection to the
9 entity that served the notice under subsection (3) of this section within 30
10 days after the date of service of the notice. The objection must describe the
11 resources of the obligor or other evidence that rebuts the presumption of
12 inability to pay child support. The entity receiving the objection shall cause
13 the case to be set for a hearing before a court or an administrative law
14 judge. The court or administrative law judge may consider only whether the
15 presumption has been rebutted.

16 (5) If no objection is made, or if the court or administrative law judge
17 finds that the presumption has not been rebutted, the [*Department of*
18 *Justice*] **administrator** shall discontinue billing the obligor for the period
19 of time described in subsection (3) of this section and no arrearage shall
20 accrue for the period during which the obligor is not billed. In addition, the
21 entity providing support enforcement services shall file with the circuit court
22 in which the support order or judgment has been entered a copy of the notice
23 described in subsection (3) of this section or, if an objection is made and the
24 presumption is not rebutted, a copy of the court's or administrative law
25 judge's order.

26 (6) An order that has been suspended as provided in this section will au-
27 tomatically be reinstated at 50 percent of the previously ordered support
28 amount on the first day of the first month that follows the 120th day after
29 the obligor's release from incarceration.

30 (7)(a) Within 30 days following reinstatement of the order pursuant to
31 subsection (6) of this section, the [*Department of Justice*] **administrator**

1 shall provide notice to all parties to the support order:

2 (A) Specifying the last date on which the obligor was incarcerated;

3 (B) Stating that by operation of law, billing and accrual of support re-
4 sumed on the first day of the first month that follows the 120th day after the
5 obligor's release from incarceration; and

6 (C) Informing the parties that the administrator will review the support
7 order for purposes of modification of the support order as provided in sub-
8 section (8) of this section within 60 days following reinstatement of the or-
9 der.

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

12 (c) The entity providing support enforcement services shall file a copy of
13 the notice required by paragraph (a) of this subsection with the circuit court
14 in which the support order or judgment has been entered.

15 (8) Within 60 days of the reinstatement under subsection (6) of this sec-
16 tion, the administrator shall review the support order for purposes of modi-
17 fying the support order.

18 (9) An obligor's incarceration for at least 180 consecutive days or an
19 obligor's release from incarceration is considered a substantial change of
20 circumstances for purposes of child support modification proceedings.

21 (10) Proof of incarceration for at least 180 consecutive days is sufficient
22 cause for the administrator, court or administrative law judge to allow a
23 credit and satisfaction against child support arrearages for each month that
24 the obligor was incarcerated or that is within 120 days following the
25 obligor's release from incarceration unless the presumption of inability to
26 pay has been rebutted.

27 (11) Orders modified to zero prior to January 1, 2018, remain in force with
28 reinstatement at the full amount ordered by the court occurring 61 days after
29 release. Such orders are not subject to suspension and reinstatement as pro-
30 vided in this section.

31 (12) The provisions of subsections (1), (9) and (10) of this section apply

1 regardless of whether child support enforcement services are being provided
2 under Title IV-D of the Social Security Act.

3 (13) The Department of Justice shall adopt rules to implement this sec-
4 tion.

5 (14) As used in this section, “support order” means a judgment or ad-
6 ministrative order that creates child support rights and that is entered or
7 issued under ORS 416.400 to 416.465, 419B.400 or 419C.590 or this chapter or
8 ORS chapter 107, 108, 109 or 110.

9 **SECTION 8.** ORS 25.260 is amended to read:

10 25.260. (1) As used in this section, “Child Support Program” means:

11 (a) The program described in ORS 180.345;

12 (b) The Administrator of the Division of Child Support of the Department
13 of Justice;

14 (c) A district attorney; and

15 (d) The administrator’s or district attorney’s authorized representative.

16 (2) Unless otherwise authorized by law, child support records, including
17 data contained in the Child Support Program’s automated system, are confi-
18 dential and may be disclosed or used only as necessary for the administration
19 of the program.

20 (3) In administering the Child Support Program, the program may:

21 (a) In accordance with rules adopted under subsection (7) of this section,
22 report abuse as defined in ORS 419B.005 if the abuse is discovered while
23 providing program services.

24 (b) Extract and receive information from other databases as necessary to
25 carry out the program’s responsibilities under state and federal law.

26 (4) The Child Support Program may compare and share information with
27 public and private entities as necessary to perform the program’s responsi-
28 bilities under state and federal law.

29 (5) The Child Support Program may exchange information with state
30 agencies administering **the following** programs [*funded under Title XIX and*
31 *Part A of Title IV of the Social Security Act*] as necessary for the Child

1 Support Program and the state agencies to perform their responsibilities
2 under state and federal law[.]:

3 (a) **Programs funded under Title IV, XIX or XXI of the Social Se-**
4 **curity Act; and**

5 (b) **The Supplemental Nutrition Assistance Program under ORS**
6 **411.806 to 411.845.**

7 (6) In addition to any penalty to which an individual may be subject un-
8 der ORS 25.990, an employee of the Department of Justice, of a district at-
9 torney or of the Department of Human Services who discloses or uses the
10 contents of any records in violation of subsection (2) of this section is sub-
11 ject to discipline, up to and including dismissal from employment.

12 (7) The Department of Justice shall adopt rules consistent with federal
13 regulations governing confidentiality of Child Support Program information.

14 **SECTION 9.** ORS 25.287 is amended to read:

15 25.287. (1)(a) The entity providing support enforcement services under
16 ORS 25.080 may initiate proceedings to modify a support obligation to ensure
17 that the support obligation is in accordance with the formula established
18 under ORS 25.275.

19 (b) Proceedings under this subsection may occur only after three years
20 have elapsed, or such shorter cycle as determined by rule of the Department
21 of Justice, from the [*later*] **latest** of the following:

22 (A) The date the original support obligation took effect;

23 (B) The date any previous modification of the support obligation took ef-
24 fect; or

25 (C) The date of any previous review and determination under this sub-
26 section that resulted in no modification of the support obligation.

27 (c) For purposes of paragraph (b) of this subsection, a support obligation
28 or modification takes effect on the first date on which the obligor is to pay
29 the established or modified support amount.

30 (d) The only issues at proceedings under this subsection are whether three
31 years have elapsed, or such shorter cycle as determined by rule of the de-

1 partment, and whether the support obligation is in substantial compliance
2 with the formula established under ORS 25.275.

3 (e) Upon review, if the administrator determines that a support obligation
4 does not qualify for modification under this section, [*a party may object to*
5 *the determination within 30 days after the date of the determination. A hearing*
6 *on the objection shall be conducted by an administrative law judge assigned*
7 *from the Office of Administrative Hearings. Appeal of the order of the ad-*
8 *ministrative law judge may be taken to the circuit court of the county in which*
9 *the support obligation has been entered or registered for a hearing de novo.*
10 *The appeal to the court shall be by petition for review filed within 60 days*
11 *after entry of the order of the administrative law judge.*] **a party may appeal**
12 **the administrator's decision under ORS 183.484.**

13 (f) If the court, the administrator or [*the*] **an** administrative law judge
14 finds that more than three years have elapsed, or such shorter cycle as de-
15 termined by rule of the department, the court, the administrator or the ad-
16 ministrative law judge shall modify the support order to bring the support
17 obligation into substantial compliance with the formula established under
18 ORS 25.275, regardless of whether there has been a substantial change in
19 circumstances since the support obligation was last established, modified or
20 reviewed. Proceedings by the administrator or administrative law judge un-
21 der this subsection shall be conducted according to the provisions of ORS
22 416.425 and 416.427.

23 (g) The provisions of this subsection apply to any support obligation es-
24 tablished by a support order under this chapter or ORS chapter 107, 108, 109,
25 110 or 416 or ORS 419B.400 or 419C.590.

26 (2) The entity providing support enforcement services shall state in the
27 document initiating the proceeding, to the extent known:

28 (a) Whether there is pending in this state or any other jurisdiction any
29 type of support proceeding involving the child, including a proceeding
30 brought under ORS 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165,
31 125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

1 (b) Whether there exists in this state or any other jurisdiction a support
2 order, as defined in ORS 110.503, involving the child, other than the support
3 obligation the entity seeks to modify.

4 (3) The entity providing support enforcement services shall include with
5 the document initiating the proceeding a certificate regarding any pending
6 support proceeding and any existing support order other than the support
7 obligation the entity seeks to modify. The entity providing support enforce-
8 ment services shall use a certificate that is in a form prescribed by the ad-
9 ministrator and shall include information required by the administrator and
10 subsection (2) of this section.

11 (4) The administrator, court or administrative law judge may use the
12 provisions of subsection (1) of this section when a support order was entered
13 in another state and registered in Oregon, the provisions of ORS chapter 110
14 apply and more than three years have elapsed, or such shorter cycle as de-
15 termined by rule of the department.

16 (5) Notwithstanding the provisions of this section, proceedings may be
17 initiated at any time to modify a support obligation based upon a substantial
18 change of circumstances under any other provision of law.

19 (6) The obligee is a party to any action to modify a support obligation
20 under this section.

21 **SECTION 10.** ORS 25.640 is amended to read:

22 25.640. For purposes of ORS 25.643 and 25.646:

23 (1) "Account" means a demand deposit account, checking or negotiable
24 withdrawal order account, savings account, share draft account, time deposit
25 account, money-market mutual fund account or a claim for insurance benefits
26 or payments of at least \$500, not including a claim for property damage,
27 under a liability insurance policy or uninsured motorist insurance policy is-
28 sued by an insurance company authorized to do business in this state.

29 (2) "Claimant" means an obligor who is asserting a claim of at least \$500,
30 not including a claim for property damage, under a liability insurance policy
31 or uninsured motorist policy issued by an insurer that is authorized to do

1 business in this state.

2 (3) “Customer” has the meaning given that term in ORS 192.583.

3 (4) “Financial institution” means:

4 (a) A depository institution, as defined in section 3(c) of the Federal De-
5 posit Insurance Act (12 U.S.C. 1813(c));

6 (b) Any federal credit union or state credit union, as defined in section
7 101 of the Federal Credit Union Act (12 U.S.C. 1752), including an
8 institution-affiliated party of such a credit union, as defined in section 206(r)
9 of the Federal Credit Union Act (12 U.S.C. 1786(r)); [*and*]

10 (c) **Any person licensed under ORS 717.200 to 717.320, 717.900 and**
11 **717.905; and**

12 [(c)] (d) Any benefit association, insurance company, safe deposit com-
13 pany, money-market mutual fund or similar entity authorized to do business
14 in this state.

15 (5) “Financial records” means any original written or electronic document
16 or copy of the document, or any information contained in the document, held
17 by or in the custody of a financial institution, when the document, copy or
18 information is identifiable as pertaining to one or more customers or claim-
19 ants of the financial institution.

20 **SECTION 11.** ORS 25.790 is amended to read:

21 25.790. (1)(a) An employer shall report to the Division of Child Support
22 of the Department of Justice the hiring or rehiring of an individual who re-
23 sides or works in the state and to whom the employer anticipates paying
24 earnings if the employer:

25 (A) Has employees working only in this state; or

26 (B) Is a multistate employer and has designated to the United States
27 Secretary of Health and Human Services that Oregon is the employer’s re-
28 porting state.

29 (b) The employer shall submit the report by mail or other means in ac-
30 cordance with rules adopted by the Department of Justice.

31 (2)(a) An employer shall make the report required by subsection (1) of this

1 section with respect to an employee:

2 (A) Not later than 20 days after the date the employer hires or rehires
3 the employee; or

4 (B) In the case of an employer transmitting reports [*magnetically or*]
5 electronically, by transmissions each month not less than 12 days nor more
6 than 16 days apart.

7 (b) An employer may submit a cumulative report for all individuals hired
8 or rehired during the previous reporting period.

9 (3) The report required under subsection (1) of this section may be made
10 on a W-4 form or, at the option of the employer, an equivalent form approved
11 by the Division of Child Support of the Department of Justice, but must
12 contain the employer's name, address and federal tax identification number
13 and the employee's name, address and Social Security number.

14 (4) As used in this section:

15 (a) "Employee" means an individual who must file a federal withholding
16 form W-4 under the Internal Revenue Code.

17 (b) "Rehire" means to re-employ any individual who was laid off, sepa-
18 rated, furloughed, granted a leave without pay or terminated from employ-
19 ment for more than 60 days.

20 **SECTION 12.** ORS 107.108 is amended to read:

21 107.108. (1) As used in this section:

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

23 (A) Is unmarried;

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

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

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

29 (b) "Regularly scheduled break" means:

30 (A) A summer semester or term;

31 (B) A period of time not exceeding four months between graduation from

1 or completion of school and the beginning of the next regularly scheduled
2 term, semester or course of study at school;

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

5 (D) Any other scheduled break between courses of study that is defined
6 by the school as a regularly scheduled break.

7 (c) "School" means:

8 (A) An educational facility such as a high school, community college,
9 four-year college or university;

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

12 (C) A high school equivalency course, including but not limited to a
13 General Educational Development (GED) program, an educational program
14 for grade 12 or below and home schooling.

15 (2) A support order entered or modified under this chapter or under ORS
16 chapter 25, 108, 109, 110, 125, 416, 419B or 419C may require either parent,
17 or both of them, to provide for the support or maintenance of a child at-
18 tending school.

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

22 (a) Apply for services under ORS 25.080:

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

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

26 (b) Request a judicial or administrative modification of the child support
27 amount or may receive notice of and participate in any modification pro-
28 ceeding; and

29 (c) Agree, in the [same] manner [as an obligee] **provided** under ORS 25.020
30 (12), that payments not made to the Department of Justice should be credited
31 for amounts that would have been paid to the child attending school if the

1 payments had been made to the department.

2 (4) Regardless of whether the child is a child attending school, an un-
3 married child who is 18 years of age or older and under 21 years of age:

4 (a) Is a necessary party to a judicial proceeding under ORS 107.085,
5 107.135, 107.431, 108.110, 109.103 or 109.165 in which the child's parents are
6 parties and the court has authority to order or modify support for a child
7 attending school; and

8 (b) May request notice of any proceeding initiated by the administrator
9 to modify a support order that may affect the child's rights as a child at-
10 tending school. To receive notice, the child shall provide an address to the
11 administrator, and the administrator shall notify the child of any modifica-
12 tion proceeding by first class mail. To be a party to a proceeding, the child
13 must send a written request to the administrator within 30 days after the
14 date of the notice of the proceeding.

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

21 (b) Unless otherwise ordered by the court, administrator or administrative
22 law judge, when there are multiple children for whom support is ordered, the
23 amount distributed or paid directly to a child attending school is a prorated
24 share based on the number of children for whom support is ordered. How-
25 ever, if, due to a parenting time or split custody arrangement, support was
26 not paid to the parent having primary physical custody of the child before
27 the child turned 18 years of age, support may not be distributed or paid di-
28 rectly to the child attending school unless the support order is modified.

29 (c) The Department of Justice shall adopt rules to define good cause and
30 circumstances under which the administrator or administrative law judge
31 may allocate support by other than a prorated share and to determine how

1 support is to be allocated in those circumstances.

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

6 (A) Written notice of the child's intent to attend or continue to attend
7 school. The child shall provide the notice before reaching 18 years of age.
8 The notice must include the name of the school and the expected graduation
9 date or date when the child will stop attending classes. If the child changes
10 schools, the child shall provide the information required by this subsection
11 concerning the subsequent school before the expected graduation date or date
12 when the child will stop attending classes at the previous school.

13 (B) Written consent that:

14 (i) Is directed to the child's school and is in a form consistent with state
15 and federal requirements that restrict disclosure of student records;

16 (ii) Gives the school authority to disclose to each parent ordered to pay
17 support the child's enrollment status, whether the child is maintaining sat-
18 isfactory academic progress, a list of courses in which the child is enrolled
19 and the child's grades; and

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

22 (b) The child shall provide the written consent form described in para-
23 graph (a)(B) of this subsection within 30 days after the beginning of the first
24 term or semester after the child reaches 18 years of age, at the beginning
25 of each academic year thereafter and as otherwise required by the school to
26 disclose the information under this section.

27 (c) If an order of nondisclosure of information has been entered concern-
28 ing the child under ORS 25.020, the child may provide the information de-
29 scribed in paragraph (a)(B) of this subsection in the manner established by
30 the department by rule.

31 (7) Each parent ordered to pay support shall continue to make support

1 payments, to be distributed or paid directly, to the child during regularly
2 scheduled breaks as long as the child intends to continue attending school
3 the next scheduled term or semester.

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

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

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

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

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

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

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

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

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

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

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

30 (ii) Proof that the written consent required by subsection (6)(a)(B) of this
31 section has been provided to the parent ordered to pay support; and

1 (D) Thirty days have passed since the department provided the notice to
2 the child and the department has not received:

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

5 (ii) Proof that the written consent required by subsection (6)(a)(B) of this
6 section has been provided to the parent ordered to pay support.

7 (9) When a parent's support obligation has been suspended under sub-
8 section (8) of this section, the obligation is reinstated:

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

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

19 (10) If a parent ordered to pay support is paying a prorated share under
20 subsection (5) of this section and that obligation is suspended under sub-
21 section (8) of this section, the parent shall pay to the obligee the amount
22 previously paid to the child attending school until such time as the support
23 order is modified. The suspension of a parent's obligation to pay support to
24 a child attending school is a substantial change of circumstances for pur-
25 poses of modifying a support order. In a proceeding to modify a support or-
26 der, the court, administrator or administrative law judge may order a
27 modified amount of support and may order an amount of support to be paid
28 in the event that a support obligation is reinstated under subsection (9) of
29 this section.

30 (11)(a) If services are being provided under ORS 25.080 and the department
31 has suspended a support obligation under subsection (8) of this section or

1 reinstated a support obligation under subsection (9) of this section, a party
2 may request administrative review of the action within 30 days after the date
3 of the notice that the department has suspended or reinstated the support
4 obligation.

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

7 (c) A party may appeal the department's decision on review under ORS
8 183.484.

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

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

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

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

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

1 **SECTION 13.** ORS 107.135 is amended to read:

2 107.135. (1) The court may at any time after a judgment of annulment or
3 dissolution of marriage or of separation is granted, upon the motion of either
4 party and after service of notice on the other party in the manner provided
5 by ORCP 7, and after notice to the Division of Child Support when required
6 under subsection (9) of this section:

7 (a) Set aside, alter or modify any portion of the judgment that provides
8 for the appointment and duties of trustees, for the custody, parenting time,
9 visitation, support and welfare of the minor children and the children at-
10 tending school, as defined in ORS 107.108, including any health or life in-
11 surance provisions, for the support of a party or for life insurance under ORS
12 107.820 or 107.830;

13 (b) Make an order, after service of notice to the other party, providing
14 for the future custody, support and welfare of minor children residing in the
15 state, who, at the time the judgment was given, were not residents of the
16 state, or were unknown to the court or were erroneously omitted from the
17 judgment;

18 (c) Terminate a duty of support toward any minor child who has become
19 self-supporting, emancipated or married;

20 (d) After service of notice on the child in the manner provided by law for
21 service of a summons, suspend future support for any child who has ceased
22 to be a child attending school as defined in ORS 107.108; and

23 (e) Set aside, alter or modify any portion of the judgment that provides
24 for a property award based on the enhanced earning capacity of a party that
25 was awarded before October 23, 1999. A property award may be set aside,
26 altered or modified under this paragraph:

27 (A) When the person with the enhanced earning capacity makes a good
28 faith career change that results in less income;

29 (B) When the income of the person with the enhanced earning capacity
30 decreases due to circumstances beyond the person's control; or

31 (C) Under such other circumstances as the court deems just and proper.

1 (2) When a party moves to set aside, alter or modify the child support
2 provisions of the judgment:

3 (a) The party shall state in the motion, to the extent known:

4 (A) Whether there is pending in this state or any other jurisdiction any
5 type of support proceeding involving children of the marriage, including one
6 brought under ORS 25.287, 107.431, 109.100, 125.025, 416.400 to 416.465,
7 419B.400 or 419C.590 or ORS chapter 110; and

8 (B) Whether there exists in this state or any other jurisdiction a support
9 order, as defined in ORS 110.503, involving children of the marriage, other
10 than the judgment the party is moving to set aside, alter or modify.

11 (b) The party shall include with the motion a certificate regarding any
12 pending support proceeding and any existing support order other than the
13 judgment the party is moving to set aside, alter or modify. The party shall
14 use a certificate that is in a form established by court rule and include in-
15 formation required by court rule and paragraph (a) of this subsection.

16 (3) In a proceeding under this section to reconsider the spousal or child
17 support provisions of the judgment, the following provisions apply:

18 (a) A substantial change in economic circumstances of a party, which may
19 include, but is not limited to, a substantial change in the cost of reasonable
20 and necessary expenses to either party, is sufficient for the court to recon-
21 sider its order of support, except that an order of compensatory spousal
22 support may only be modified upon a showing of an involuntary, extraor-
23 dinary and unanticipated change in circumstances that reduces the earning
24 capacity of the paying spouse.

25 (b) If the judgment provided for a termination or reduction of spousal
26 support at a designated age in anticipation of the commencement of pension,
27 Social Security or other entitlement payments, and if the obligee is unable
28 to obtain the anticipated entitlement payments, that inability is sufficient
29 change in circumstances for the court to reconsider its order of support.

30 (c) If Social Security is considered in lieu of spousal support or partial
31 spousal support, the court shall determine the amount of Social Security the

1 party is eligible to collect. The court shall take into consideration any pen-
2 sion, retirement or other funds available to either party to effect an equita-
3 ble distribution between the parties and shall also take into consideration
4 any reduction of entitlement caused by taking early retirement.

5 (4) In considering under this section whether a change in circumstances
6 exists sufficient for the court to reconsider spousal or child support pro-
7 visions of a judgment, the following provisions apply:

8 (a) The court or administrator, as defined in ORS 25.010, shall consider
9 income opportunities and benefits of the respective parties from all sources,
10 including but not limited to:

11 (A) The reasonable opportunity of each party, the obligor and obligee re-
12 spectively, to acquire future income and assets.

13 (B) Retirement benefits available to the obligor and to the obligee.

14 (C) Other benefits to which the obligor is entitled, such as travel benefits,
15 recreational benefits and medical benefits, contrasted with benefits to which
16 the obligee is similarly entitled.

17 (D) Social Security benefits paid to a child, or to a representative payee
18 administering the funds for the child's use and benefit, as a result of the
19 obligor's disability or retirement if the benefits:

20 (i) Were not previously considered in the child support order; or

21 (ii) Were considered in an action initiated before May 12, 2003.

22 (E) Apportioned Veterans' benefits or Survivors' and Dependents' Educa-
23 tional Assistance under 38 U.S.C. chapter 35 paid to a child, or to a repre-
24 sentative payee administering the funds for the child's use and benefit, as a
25 result of the obligor's disability or retirement if the benefits:

26 (i) Were not previously considered in the child support order; or

27 (ii) Were considered in an action initiated before May 12, 2003.

28 (b) If the motion for modification is one made by the obligor to reduce
29 or terminate support, and if the obligee opposes the motion, the court shall
30 not find a change in circumstances sufficient for reconsideration of support
31 provisions, if the motion is based upon a reduction of the obligor's financial

1 status resulting from the obligor's taking voluntary retirement, partial vol-
2 untary retirement or any other voluntary reduction of income or self-imposed
3 curtailment of earning capacity, if it is shown that such action of the obligor
4 was not taken in good faith but was for the primary purpose of avoiding the
5 support obligation. In any subsequent motion for modification, the court
6 shall deny the motion if the sole basis of the motion for modification is the
7 termination of voluntarily taken retirement benefits and the obligor previ-
8 ously has been found not to have acted in good faith.

9 (c) The court shall consider the following factors in deciding whether the
10 actions of the obligor were not in "good faith":

11 (A) Timing of the voluntary retirement or other reduction in financial
12 status to coincide with court action in which the obligee seeks or is granted
13 an increase in spousal support.

14 (B) Whether all or most of the income producing assets and property were
15 awarded to the obligor, and spousal support in lieu of such property was
16 awarded to the obligee.

17 (C) Extent of the obligor's dissipation of funds and assets prior to the
18 voluntary retirement or soon after filing for the change of circumstances
19 based on retirement.

20 (D) If earned income is reduced and absent dissipation of funds or large
21 gifts, whether the obligor has funds and assets from which the spousal sup-
22 port could have been paid.

23 (E) Whether the obligor has given gifts of substantial value to others,
24 including a current spouse, to the detriment of the obligor's ability to meet
25 the preexisting obligation of spousal support.

26 (5) Upon terminating a duty of spousal support, a court shall make spe-
27 cific findings of the basis for the termination and shall include the findings
28 in the judgment.

29 (6) Any modification of child or spousal support granted because of a
30 change of circumstances may be ordered effective retroactive to the date the
31 motion for modification was served or to any date thereafter.

1 (7) The judgment is final as to any installment or payment of money that
2 has accrued up to the time the nonmoving party, other than the state, is
3 served with a motion to [*set aside, alter or*] modify the judgment. The court
4 may not [*set aside, alter or*] modify any portion of the judgment that provides
5 for any payment of money, either for minor children or for the support of a
6 party, that has accrued before the motion is served. However:

7 (a) The court may allow a credit against child support arrearages for pe-
8 riods of time, excluding reasonable parenting time unless otherwise provided
9 by order or judgment, during which the obligor, with the knowledge and
10 consent of the obligee or pursuant to court order, has physical custody of the
11 child; and

12 (b) The court may allow, as provided in the rules of the Child Support
13 Program, a dollar-for-dollar credit against child support arrearages for any
14 Social Security or Veterans' benefits paid retroactively to the child, or to a
15 representative payee administering the funds for the child's use and benefit,
16 as a result of an obligor's disability or retirement.

17 (8) In a proceeding under subsection (1) of this section, the court may
18 assess against either party a reasonable attorney fee and costs for the benefit
19 of the other party. If a party is found to have acted in bad faith, the court
20 shall order that party to pay a reasonable attorney fee and costs of the de-
21 fending party.

22 (9) Whenever a motion to establish, modify or terminate child support or
23 satisfy or alter support arrearages is filed and the child support rights of one
24 of the parties or of a child of both of the parties have been assigned to the
25 state, a true copy of the motion shall be served by mail or personal delivery
26 on the Administrator of the Division of Child Support of the Department of
27 Justice or on the branch office providing support services to the county in
28 which the motion is filed.

29 (10)(a) Except as provided in ORS 109.701 to 109.834, the courts of Oregon,
30 having once acquired personal and subject matter jurisdiction in a domestic
31 relations action, retain such jurisdiction regardless of any change of

1 domicile.

2 (b) The courts of Oregon, in a proceeding to establish, enforce or modify
3 a child support order, shall recognize the provisions of the federal Full Faith
4 and Credit for Child Support Orders Act (28 U.S.C. 1738B).

5 (11) In a proceeding under this section to reconsider provisions in a
6 judgment relating to custody or parenting time, the court may consider re-
7 peated and unreasonable denial of, or interference with, parenting time to
8 be a substantial change of circumstances.

9 (12) In a proceeding under this section to reconsider provisions in a
10 judgment relating to parenting time, the court may suspend or terminate a
11 parent's parenting time with a child if the court finds that the parent has
12 abused a controlled substance and that the parenting time is not in the best
13 interests of the child. If a court has suspended or terminated a parent's
14 parenting time with a child for reasons described in this subsection, the
15 court may not grant the parent future parenting time until the parent has
16 shown that the reasons for the suspension or termination are resolved and
17 that reinstated parenting time is in the best interests of the child. Nothing
18 in this subsection limits the court's authority under subsection (1)(a) of this
19 section.

20 (13) In a proceeding under this section to reconsider provisions in a
21 judgment relating to custody, temporary placement of the child by the cus-
22 todial parent pursuant to ORS 109.056 (3) with the noncustodial parent as a
23 result of military deployment of the custodial parent is not, by itself, a
24 change of circumstances. Any fact relating to the child and the parties oc-
25 ccurring subsequent to the last custody judgment, other than the custodial
26 parent's temporary placement of the child pursuant to ORS 109.056 (3) with
27 the noncustodial parent, may be considered by the court when making a
28 change of circumstances determination.

29 (14) Within 30 days after service of notice under subsection (1) of this
30 section, the party served shall file a written response with the court.

31 (15)(a) It is the policy of this state:

1 (A) To encourage the settlement of cases brought under this section; and

2 (B) For courts to enforce the terms of settlements described in paragraph
3 (b) of this subsection to the fullest extent possible, except when to do so
4 would violate the law or would clearly contravene public policy.

5 (b) In a proceeding under subsection (1) of this section, the court may
6 enforce the terms set forth in a stipulated order or judgment signed by the
7 parties, an order or judgment resulting from a settlement on the record or
8 an order or judgment incorporating a settlement agreement:

9 (A) As contract terms using contract remedies;

10 (B) By imposing any remedy available to enforce an order or judgment,
11 including but not limited to contempt; or

12 (C) By any combination of the provisions of subparagraphs (A) and (B)
13 of this paragraph.

14 (c) A party may seek to enforce an agreement and obtain remedies de-
15 scribed in paragraph (b) of this subsection by filing a motion, serving notice
16 on the other party in the manner provided by ORCP 7 and, if a remedy under
17 paragraph (b)(B) of this subsection is sought, complying with the statutory
18 requirements for that remedy. All claims for relief arising out of the same
19 acts or omissions must be joined in the same proceeding.

20 (d) Nothing in paragraph (b) or (c) of this subsection limits a party's
21 ability, in a separate proceeding, to file a motion to modify an order or
22 judgment under subsection (1) of this section or to seek enforcement of an
23 ancillary agreement to the order or judgment.

24 **SECTION 14.** ORS 416.429 is amended to read:

25 416.429. (1) The administrator may issue a notice of intent to establish
26 and enforce arrearages for any support order that is registered, filed or en-
27 tered in this state. The notice must be served upon the obligor in the manner
28 prescribed for service of summons in a civil action, mailed to the obligor at
29 the obligor's last-known address by certified mail, return receipt requested,
30 or by any other mail service with delivery confirmation. The administrator
31 shall mail the notice to the obligee by regular mail.

1 (2) The notice shall include:

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

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

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

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

11 *[(e) A statement that if full payment or an objection is not received within
12 30 days, the administrator will enter an order directing that the amount of the
13 arrearages stated in the notice be entered in the child support accounting re-
14 cord maintained by the Department of Justice;]*

15 *[(f)]* **(d)** A statement that if the obligor or the obligee objects to the
16 enforcement of the arrearages, then the objecting party must send to the of-
17 fice issuing the notice, within 30 days of the date of service, a written re-
18 sponse that sets forth any objections and requests a hearing;

19 *[(g)]* **(e)** A statement that the only basis upon which an obligor or an
20 obligee may object to the enforcement of the arrearages is that the amount
21 of the arrearages specified in the notice is incorrect;

22 *[(h)]* **(f)** A reference to ORS 416.400 to 416.465;

23 *[(i)]* **(g)** A statement that the obligor and the obligee are responsible for
24 notifying the office of any change of address or employment;

25 *[(j)]* **(h)** A statement that if the obligor or the obligee has any questions,
26 the obligor or obligee should telephone or visit the appropriate office or
27 consult an attorney; and

28 *[(k)]* **(i)** Such other information as the administrator finds appropriate.

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

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

5 (5) Action to administratively enforce and collect upon the arrearages
6 established under this section may be taken 30 days after service of or re-
7 ceipt or refusal of the notice by the obligor or obligee.

8 (6) Nothing in this section shall prevent the administrator from using
9 other available enforcement remedies at any time.

10
