

A-Engrossed
Senate Bill 511

Ordered by the Senate March 1
Including Senate Amendments dated March 1

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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.

Creates **liquidated** debt to state and **associated** account receivable for overpayment of support obligation that is transmitted by Department of Justice to [*obligor, collection agency, child support agency of another state, agency of this state or*] any other person or entity.

Creates **liquidated** debt in favor of state and **associated** account receivable when [*check*] **payment** received by department is dishonored **or reversed** and department has transmitted amounts paid [*by check*] to [*obligee, child support agency of another state, agency of this state or*] any other person or entity.

Specifies when accounts receivable are considered delinquent.

A BILL FOR AN ACT

1
2 Relating to support obligation overpayments; 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*], **or on behalf of, any person or entity,**
16 **including but not limited to an obligor,** an obligee or a collection agency, a child support agency
17 of another state or an agency of this state, and:

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

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

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

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 (3)(a) [*The obligee or the agency to whom*] **The person or entity to which** the moneys were
2 transmitted owes the amount of the overpayment to the state. The Department of Justice shall:

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

4 (B) Notify the [*obligee or the agency*] **person or entity** to whom the overpayment was made that
5 the [*obligee or agency*] **person or entity** owes money to the state and specify the amount of the
6 overpayment to be returned to the department; and

7 (C) Give the [*obligee*] **person or entity** opportunity to object.

8 (b) If the [*obligee*] **person or entity** does not file a timely written objection, the overpayment
9 amount determined by the department [*is final*] **becomes a liquidated debt and creates an account**
10 **receivable owed to the department**, and the provisions of subsection (4) of this section apply. If
11 the department does not resolve an objection to [*an obligee's*] **the person's or entity's** satisfaction,
12 an administrative law judge assigned from the Office of Administrative Hearings shall hear the ob-
13 jection. An order by the administrative law judge [*is final*] **becomes a liquidated debt and creates**
14 **an account receivable owed to the department**. [*An obligee*] **The person or entity** may appeal
15 the decision of an administrative law judge to the circuit court for a hearing de novo.

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

19 (4)(a) The amount of the overpayment specified in subsection (3)(a) of this section is a liquidated
20 debt [*and a delinquent amount*] owed to the state **and an associated account receivable**. The De-
21 partment of Justice may recover the debt by obtaining from the obligee a voluntary assignment of
22 a portion of future support payments to be applied to the [*debt*] **account receivable** or in any other
23 way permitted by law.

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

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

27 **(B) A period of 90 days elapses without a payment as required by a payment agreement**
28 **between the department and the obligated person or entity.**

29 (5)(a) In addition to the [*debt*] **account receivable** created under subsection (2) of this section,
30 a debt in favor of the state [*is*] **and an associated account receivable are** created when:

31 (A) The Department of Justice receives [*a check*] **payment** for support amounts due from an
32 obligor, a withholder subject to an order to withhold under this chapter or another issuer on behalf
33 of an obligor;

34 (B) The Department of Justice transmits the amount to [*the obligee, a child support agency of*
35 *another state or an agency of this state*] **any other person or entity**; and

36 (C) The [*check*] **payment** is dishonored or reversed.

37 (b) When a debt is created under paragraph (a) of this subsection, the amount of money specified
38 [*on the check*] **in the payment** is owed to the state [*by all*], and the [*state*] **department** may collect
39 the debt from one[,] of the following:

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

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

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

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

44 (c) The Department of Justice shall:

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

1 (B) Notify the obligor, withholder or other issuer who [*presented the check*] **made the payment**
2 that the [*obligor, withholder or other issuer*] **person or entity** owes the money to the state; and

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

4 (d) The amount of the debt specified in paragraph (c) of this subsection is a liquidated debt [*and*
5 *a delinquent amount*] owed to the state **and an account receivable**. The Department of Justice may
6 recover the debt **and collect on the account receivable** in any way permitted under law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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