

# Senate Bill 514

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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 **as introduced**.

Removes requirement to send notices to obligees in certain support proceedings.

Authorizes Department of Justice to adopt rules permitting department, Division of Child Support and Child Support Program to determine whether sending notices to obligees when required by law is appropriate, necessary or beneficial and, if not, to dispense with requirement to send notices to obligee.

## A BILL FOR AN ACT

1  
2 Relating to notices to obligees in support proceedings; creating new provisions; and amending ORS  
3 25.399, 25.610, 25.650 and 25.670.

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

5 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of ORS chapter 25.**

6 **SECTION 2. The Department of Justice may adopt rules implementing procedures**  
7 **whereby, whenever under this chapter the department, the Division of Child Support of the**  
8 **Department of Justice or the Child Support Program is required to send notice of an action**  
9 **taken by the department, division or program to an obligee, the department, division or**  
10 **program may determine whether it is appropriate, necessary or beneficial to send notice to**  
11 **an obligee under the particular circumstances. The rules shall provide that, if the depart-**  
12 **ment, division or program determine that providing such notice to an obligee is not appro-**  
13 **priate, necessary or beneficial, the obligation of the department, division or program to send**  
14 **such notice no longer exists and is no longer required.**

15 **SECTION 3. ORS 25.399 is amended to read:**

16 25.399. (1) When an order to withhold is issued under ORS 25.378, the party or entity initiating  
17 the action shall send notice of the order to withhold to the obligor [*and the obligee*] by regular mail  
18 to the last-known addresses of the obligor [*and obligee*]. The notice must state:

19 (a) That withholding has commenced;

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

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

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

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

27 (f) That the obligor has 30 days from the date that the income is first withheld pursuant to the  
28 order to withhold to contest the withholding; 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 (g) The actions that will be taken if the obligor contests the withholding.

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

4 **SECTION 4.** ORS 25.610 is amended to read:

5 25.610. (1) Whenever support enforcement services are being provided, the administrator may  
6 request the Department of Revenue, through the Department of Justice or its designee, to collect  
7 past due child and spousal support from income tax refunds due to the obligor. The request shall  
8 be based upon the payment record maintained under ORS 25.020.

9 (2) If support payment records have not been maintained as provided in ORS 25.020, then a  
10 support payment record may be established under ORS 25.164, 25.167 and 416.429.

11 (3) The Department of Justice shall adopt rules:

12 (a) Setting out additional criteria for requests under subsection (1) of this section; and

13 (b) Directing how any support obligation collected by the Department of Revenue shall be dis-  
14 tributed, consistent with federal regulations.

15 (4) Before a request is made to the Department of Revenue under subsection (1) of this section,  
16 the Department of Justice shall provide advance written notice to the obligor, and **may send ad-  
17 vance written notice to** the obligee, of its intent to refer the case to the Department of Revenue.  
18 The notice shall inform the parties:

19 (a) Of the proposed action;

20 (b) Of the obligor's right to request an administrative review of the proposed action;

21 (c) That an administrative review, if desired, must be requested by the obligor within 30 days  
22 after the date of the notice; and

23 (d) That the only issues that may be considered in the administrative review are:

24 (A) Whether the obligor is the person who owes the support obligation; and

25 (B) Whether the amount shown as the past due support is correct.

26 (5) An administrative review must be requested within 30 days after the date of the notice de-  
27 scribed in subsection (4) of this section. At the administrative review, an issue may not be consid-  
28 ered if it was previously litigated or if the obligor failed to exercise rights to appear and be heard  
29 or to appeal a decision that resulted in the accrual of the arrearage being used as a basis for a  
30 request under subsection (1) of this section. A party may appeal a decision from the administrative  
31 review under ORS 183.484.

32 (6) When the Department of Revenue has been requested to collect past due child and spousal  
33 support from income tax refunds due to the obligor, the Department of Revenue may not allow the  
34 obligor to apply any income tax refund to future taxes of the obligor.

35 (7) Notwithstanding any other provision of this section, an obligor who is not delinquent in  
36 payment of child or spousal support may authorize the Department of Revenue, through the De-  
37 partment of Justice or its designee, to withhold any income tax refund owing to that obligor for the  
38 purpose of applying the moneys as a credit to the support account maintained by the Department  
39 of Justice.

40 **SECTION 5.** ORS 25.650 is amended to read:

41 25.650. (1) As used in this section, "consumer reporting agency" means any person that, for  
42 monetary fees or dues or on a cooperative nonprofit basis, regularly engages in whole or in part in  
43 the practice of assembling or evaluating consumer credit information or other information on con-  
44 sumers for the purpose of furnishing consumer reports to third parties, and that uses any means or  
45 facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

1 (2)(a) Notwithstanding any other law, and subject to rules established by the Department of  
 2 Justice, for cases in which there is past due support, the department shall:

3 (A) Report periodically to consumer reporting agencies the name of any obligor who is delin-  
 4 quent in the payment of support and the amount owed by the obligor; and

5 (B) Otherwise make available to a consumer reporting agency upon its request information re-  
 6 garding the amount of past due support owed by an obligor.

7 (b) The department shall provide advance notice to *[both]* the obligor *[and the obligee]* concern-  
 8 ing the proposed reporting of information to the consumer reporting agencies. The notice must in-  
 9 form *[both parties]* **the obligor**:

10 (A) Of the amount of the past due support the department will report to the consumer reporting  
 11 agencies;

12 (B) That the department will continue to report the past due support amount owed without  
 13 sending additional notice to the *[parties]* **obligor**;

14 (C) Of the obligor's right to request an administrative review within 30 days after the date of  
 15 the notice; and

16 (D) Of the issues that may be considered on review.

17 (c) If an obligor requests an administrative review, the department may not report the past due  
 18 support amount until the review is complete.

19 (d) A party may appeal a decision from the administrative review under ORS 183.484. An appeal  
 20 of the decision does not stay the department from making reports to consumer reporting agencies.

21 (3)(a) If paternity has been established and a consumer report is needed for the purpose of es-  
 22 tablishing or modifying a child support order, the administrator may request that a consumer re-  
 23 porting agency provide a report.

24 (b) At least 10 days prior to making a request under paragraph (a) of this subsection, the ad-  
 25 ministrator shall notify the obligor or obligee whose report is requested, by certified or registered  
 26 mail, that the report will be requested.

27 (4) The department shall report information under subsection (2) of this section only to a person  
 28 that has furnished evidence satisfactory to the department that the person is a consumer reporting  
 29 agency.

30 (5) When the department has made a report to a consumer reporting agency under subsection  
 31 (2) of this section, the department shall promptly notify the consumer reporting agency when the  
 32 department's records show that the obligor no longer owes past due support.

33 **SECTION 6.** ORS 25.670 is amended to read:

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

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

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

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

1 (C) The name and address of the office of the district attorney, Division of Child Support or  
2 other person or entity filing the notice;

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

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

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

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

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

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

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

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