

A-Engrossed
Senate Bill 765

Ordered by the Senate April 12
Including Senate Amendments dated April 12

Sponsored by COMMITTEE ON JUDICIARY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Directs Administrator of Division of Child Support of Department of Justice to conduct statewide study regarding child support no later than July 1, 2018.]

[Requires department to submit report regarding study to interim legislative committees no later than November 1, 2018.]

[Sunsets January 2, 2019.]

Removes requirement that health care coverage under medical support clause in child support order be private health care coverage.

Removes authorization for Department of Justice to disburse support payments to collection agency.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to child support; amending ORS 25.020, 25.321 and 25.323; and declaring an emergency.

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

4 **SECTION 1.** ORS 25.323 is amended to read:

5 25.323. (1) Every child support order must include a medical support clause.

6 (2) Whenever a child support order that does not include a medical support clause is modified
7 the modification must include a medical support clause.

8 (3) A medical support clause may require that medical support be provided in more than one
9 form, and may make the requirement that medical support be provided in a particular form contin-
10 gent on the availability of another form of medical support.

11 (4) A medical support clause must require that one or both parents provide [*private*] health care
12 coverage for a child that is appropriate and available at the time the order is entered. If [*private*]
13 health care coverage for a child is not appropriate and available at the time the order is entered,
14 the order must:

15 (a) Require that one or both parents provide [*private*] health care coverage for the child at any
16 time thereafter when such coverage becomes available; and

17 (b) Either require the payment of cash medical support, or include findings on why cash medical
18 support has not been required.

19 (5) For the purposes of subsection (4) of this section, [*private*] health care coverage is appropri-
20 ate and available for a child if the coverage:

21 (a) Is accessible, as described in subsection (6) of this section;

22 (b) Is reasonable in cost and does not require the payment of unreasonable deductibles or
23 copayments; and

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 (c) Provides coverage, at a minimum, for medical expenses, hospital expenses, preventive care,
2 emergency care, acute care and chronic care.

3 (6) [Private] Health care coverage is accessible for the purposes of subsection (5)(a) of this sec-
4 tion if:

5 (a) The coverage will be available for at least one year, based on the work history of the parent
6 providing the coverage; and

7 (b) The coverage either does not have service area limitations or the child lives within 30 miles
8 or 30 minutes of a primary care provider who is eligible for payment under the coverage.

9 (7) A medical support clause may not order a providing party to pay cash medical support or
10 to pay to provide health care coverage if the providing party's income is equal to or less than the
11 Oregon minimum wage for full-time employment.

12 (8) Cash medical support and the cost of other medical support ordered under a medical support
13 clause constitute a child support obligation and must be included in the child support calculation
14 made under ORS 25.275.

15 **SECTION 2.** ORS 25.321 is amended to read:

16 25.321. As used in ORS 25.321 to 25.343:

17 (1) "Cash medical support" means an amount that a parent is ordered to pay to defray the cost
18 of health care coverage provided for a child by the other parent or a public body, or to defray
19 uninsured medical expenses of the child.

20 (2) "Child support order" means a judgment or administrative order that creates child support
21 rights and that is entered or issued under ORS 416.400 to 416.465, 419B.400 or 419C.590 or this
22 chapter or ORS chapter 107, 108, 109 or 110.

23 (3) "Employee health benefit plan" means a health benefit plan that is available to a providing
24 party by reason of the providing party's employment.

25 (4) "Enforcing agency" means the administrator.

26 (5) "Health benefit plan" means any policy or contract of insurance, indemnity, subscription or
27 membership issued by an insurer, including health care coverage provided by a public body, and any
28 self-insured employee benefit plan that provides coverage for medical expenses.

29 (6) "Health care coverage" means providing and paying for the medical needs of a child through
30 a policy or contract of insurance, indemnity, subscription or membership issued by an insurer, in-
31 cluding medical assistance provided by a public body, and any self-insured employee benefit plan
32 that provides coverage for medical expenses.

33 (7) "Medical support" means cash medical support and health care coverage.

34 (8) "Medical support clause" means a provision in a child support order that requires one or
35 both of the parents to provide medical support for the child.

36 (9) "Medical support notice" means a notice in the form prescribed under ORS 25.325 (5).

37 (10) "Plan administrator" means:

38 (a) The employer, union or other provider that offers a health benefit plan; or

39 (b) The person to whom, under a written agreement of the parties, the duty of plan administrator
40 is delegated by the employer, union or other provider that offers a health benefit plan.

41 [(11) "Private health care coverage" means all health care coverage other than medical assistance
42 provided by a public body.]

43 [(12)] (11) "Providing party" means a party to a child support order who has been ordered by
44 the court or the enforcing agency to provide medical support.

45 [(13)] (12) "Public body" has the meaning given that term in ORS 174.109.

1 **SECTION 3.** ORS 25.020 is amended to read:

2 25.020. (1) Support payments for or on behalf of any person that are ordered, registered or filed
3 under this chapter or ORS chapter 107, 108, 109, 110, 416, 419B or 419C, unless otherwise authorized
4 by ORS 25.030, shall be made to the Department of Justice as the state disbursement unit:

5 (a) During periods for which support is assigned under ORS 412.024, 418.032, 419B.406 or
6 419C.597;

7 (b) As provided by rules adopted under ORS 180.345, when public assistance is provided to a
8 person who receives or has a right to receive support payments on the person's own behalf or on
9 behalf of another person;

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

11 (d) For any period during which support enforcement services are provided under ORS 25.080;

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

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

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

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

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

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

25 ***[(b) The Department of Justice:]***

26 ***[(A) Shall disburse support payments, to which the obligee is legally entitled, to the collection***
27 ***agency if the obligee submits the completed form referred to in paragraph (c)(A) of this subsection to***
28 ***the department;]***

29 ***[(B) May reinstate disbursements to the obligee if:]***

30 ***[(i) The obligee requests that disbursements be made directly to the obligee;]***

31 ***[(ii) The collection agency violates any provision of this subsection; or]***

32 ***[(iii) The Department of Consumer and Business Services notifies the Department of Justice that***
33 ***the collection agency is in violation of the rules adopted under ORS 697.086;]***

34 ***[(C) Shall credit the obligor's account for the full amount of each support payment received by the***
35 ***department and disbursed to the collection agency; and]***

36 ***[(D) Shall develop the form referred to in paragraph (c)(A) of this subsection, which shall include***
37 ***a notice to the obligee printed in type size equal to at least 12-point type that the obligee may be eligible***
38 ***for support enforcement services from the department or the district attorney without paying the interest***
39 ***or fee that is typically charged by a collection agency.]***

40 ***[(c) The obligee shall:]***

41 ***[(A) Provide to the department, on a form approved by the department, information about the***
42 ***agreement with the collection agency; and]***

43 ***[(B) Promptly notify the department when the agreement is terminated.]***

44 ***[(d)] (b) The collection agency:***

45 ***(A) May provide investigative and location services to the obligee and disclose relevant infor-***

1 mation from those services to the administrator for purposes of providing support enforcement ser-
2 vices under ORS 25.080;

3 (B) May not charge interest or a fee for its services exceeding 29 percent of each support pay-
4 ment received unless the collection agency, if allowed by the terms of the agreement between the
5 collection agency and the obligee, hires an attorney to perform legal services on behalf of the
6 obligee;

7 (C) May not initiate, without written authorization from the administrator, any enforcement
8 action relating to support payments on which support enforcement services are provided by the ad-
9 ministrator under ORS 25.080; and

10 (D) Shall include in the agreement with the obligee a notice printed in type size equal to at least
11 12-point type that provides information on the fees, penalties, termination and duration of the
12 agreement.

13 [(e)] (c) The administrator may use information disclosed by the collection agency to provide
14 support enforcement services under ORS 25.080.

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

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

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

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

26 (B) Amount of the support order.

27 (C) Dates and amounts of payments.

28 (D) Dates and amounts of disbursements.

29 (E) Payee of any disbursements.

30 (F) Amount of any arrearage.

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

32 (b) Nothing in this subsection limits the information the administrator may provide by law to a
33 party who is not represented by an attorney.

34 (7) Any pleading for the entry or modification of a support order must contain a statement that
35 payment of support under a new or modified order will be by income withholding unless an excep-
36 tion to payment by income withholding is granted under ORS 25.396.

37 (8)(a) Except as provided in paragraphs (d) and (e) of this subsection, a judgment or order es-
38 tablishing paternity or including a provision concerning support must contain:

39 (A) The residence, mailing or contact address, final four digits of the Social Security number,
40 telephone number and final four digits of the driver license number of each party;

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

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

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

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

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

3 (B) May request that the administrator review the amount of support ordered after three years,
4 or such shorter cycle as determined by rule of the Department of Justice, or at any time upon a
5 substantial change of circumstances.

6 (c) The administrator may require of the parties any additional information that is necessary for
7 the provision of support enforcement services under ORS 25.080.

8 (d)(A) Upon a finding, which may be made ex parte, that the health, safety or liberty of a party
9 or child would unreasonably be put at risk by the disclosure of information specified in this sub-
10 section or by the disclosure of other information concerning a child or party to a paternity or sup-
11 port proceeding or if an existing order so requires, a court or administrator or administrative law
12 judge, when the proceeding is administrative, shall order that the information not be contained in
13 any document provided to another party or otherwise disclosed to a party other than the state.

14 (B) The Department of Justice shall adopt rules providing for similar confidentiality for infor-
15 mation described in subparagraph (A) of this paragraph that is maintained by an entity providing
16 support enforcement services under ORS 25.080.

17 (e) The Chief Justice of the Supreme Court may, in consultation with the Department of Justice,
18 adopt rules under ORS 1.002 to designate information specified in this subsection as confidential and
19 require that the information be submitted through an alternate procedure to ensure that the infor-
20 mation is exempt from public disclosure under ORS 192.502.

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

25 (b) Service of an order directing an obligor to appear in a contempt proceeding is subject to
26 ORS 33.015 to 33.155.

27 (10) Subject to ORS 25.030, this section, to the extent it imposes any duty or function upon the
28 Department of Justice, shall be deemed to supersede any provisions of ORS chapters 107, 108, 109,
29 110, 416, 419A, 419B and 419C that would otherwise impose the same duties or functions upon the
30 county clerk or the Department of Human Services.

31 (11) Except as provided for in subsections (12), (13) and (14) of this section, credit may not be
32 given for payments not made to the Department of Justice as required under subsection (1) of this
33 section.

34 (12) The Department of Justice shall give credit for payments not made to the department:

35 (a) When payments are not assigned to this or another state and the obligee and obligor agree
36 in writing that specific payments were made and should be credited;

37 (b) When payments are assigned to the State of Oregon, the obligor and obligee make sworn
38 written statements that specific payments were made, canceled checks or other substantial evidence
39 is presented to corroborate their statements and the obligee has been given prior written notice of
40 any potential criminal or civil liability that may attach to an admission of the receipt of assigned
41 support;

42 (c) When payments are assigned to another state and that state verifies that payments not paid
43 to the department were received by the other state; or

44 (d) As provided by rule adopted under ORS 180.345.

45 (13) An obligor may apply to the Department of Justice for credit for payments made other than

1 to the Department of Justice. If the obligee or other state does not provide the agreement, sworn
2 statement or verification required by subsection (12) of this section, credit may be given pursuant
3 to order of an administrative law judge assigned from the Office of Administrative Hearings after
4 notice and opportunity to object and be heard are given to both obligor and obligee. Notice shall
5 be served upon the obligee as provided by ORS 25.085. Notice to the obligor may be by regular mail
6 at the address provided in the application for credit. A hearing conducted under this subsection is
7 a contested case hearing and ORS 183.413 to 183.470 apply. Any party may seek a hearing de novo
8 in the circuit court.

9 (14) Nothing in this section precludes the Department of Justice from giving credit for payments
10 not made to the department when there has been a judicially determined credit or satisfaction or
11 when there has been a satisfaction of support executed by the person to whom support is owed.

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

13 (a) Direct how support payments that are made through the department are to be applied and
14 disbursed; and

15 (b) Are consistent with federal regulations.

16 **SECTION 4. This 2017 Act being necessary for the immediate preservation of the public**
17 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**
18 **on its passage.**

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