

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 765**

1 In line 2 of the printed bill, after the semicolon insert “amending ORS
2 25.020, 25.321 and 25.323;”.

3 Delete lines 4 through 12 and insert:

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

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

7 “(2) Whenever a child support order that does not include a medical sup-
8 port clause is modified the modification must include a medical support
9 clause.

10 “(3) A medical support clause may require that medical support be pro-
11 vided in more than one form, and may make the requirement that medical
12 support be provided in a particular form contingent on the availability of
13 another form of medical support.

14 “(4) A medical support clause must require that one or both parents pro-
15 vide [*private*] health care coverage for a child that is appropriate and avail-
16 able at the time the order is entered. If [*private*] health care coverage for a
17 child is not appropriate and available at the time the order is entered, the
18 order must:

19 “(a) Require that one or both parents provide [*private*] health care cov-
20 erage for the child at any time thereafter when such coverage becomes
21 available; and

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

3 “(5) For the purposes of subsection (4) of this section, [*private*] health care
4 coverage is appropriate and available for a child if the coverage:

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

6 “(b) Is reasonable in cost and does not require the payment of unreason-
7 able deductibles or copayments; and

8 “(c) Provides coverage, at a minimum, for medical expenses, hospital ex-
9 penses, preventive care, emergency care, acute care and chronic care.

10 “(6) [*Private*] Health care coverage is accessible for the purposes of sub-
11 section (5)(a) of this section if:

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

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

17 “(7) A medical support clause may not order a providing party to pay cash
18 medical support or to pay to provide health care coverage if the providing
19 party’s income is equal to or less than the Oregon minimum wage for full-
20 time employment.

21 “(8) Cash medical support and the cost of other medical support ordered
22 under a medical support clause constitute a child support obligation and
23 must be included in the child support calculation made under ORS 25.275.

24 “**SECTION 2.** ORS 25.321 is amended to read:

25 “25.321. As used in ORS 25.321 to 25.343:

26 “(1) ‘Cash medical support’ means an amount that a parent is ordered to
27 pay to defray the cost of health care coverage provided for a child by the
28 other parent or a public body, or to defray uninsured medical expenses of the
29 child.

30 “(2) ‘Child support order’ means a judgment or administrative order that

1 creates child support rights and that is entered or issued under ORS 416.400
2 to 416.465, 419B.400 or 419C.590 or this chapter or ORS chapter 107, 108, 109
3 or 110.

4 “(3) ‘Employee health benefit plan’ means a health benefit plan that is
5 available to a providing party by reason of the providing party’s employment.

6 “(4) ‘Enforcing agency’ means the administrator.

7 “(5) ‘Health benefit plan’ means any policy or contract of insurance,
8 indemnity, subscription or membership issued by an insurer, including health
9 care coverage provided by a public body, and any self-insured employee ben-
10 efit plan that provides coverage for medical expenses.

11 “(6) ‘Health care coverage’ means providing and paying for the medical
12 needs of a child through a policy or contract of insurance, indemnity, sub-
13 scription or membership issued by an insurer, including medical assistance
14 provided by a public body, and any self-insured employee benefit plan that
15 provides coverage for medical expenses.

16 “(7) ‘Medical support’ means cash medical support and health care cov-
17 erage.

18 “(8) ‘Medical support clause’ means a provision in a child support order
19 that requires one or both of the parents to provide medical support for the
20 child.

21 “(9) ‘Medical support notice’ means a notice in the form prescribed under
22 ORS 25.325 (5).

23 “(10) ‘Plan administrator’ means:

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

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

29 “[11] ‘Private health care coverage’ means all health care coverage other
30 than medical assistance provided by a public body.]

1 “[~~(12)~~] (11) ‘Providing party’ means a party to a child support order who
2 has been ordered by the court or the enforcing agency to provide medical
3 support.

4 “[~~(13)~~] (12) ‘Public body’ has the meaning given that term in ORS 174.109.

5 **“SECTION 3.** ORS 25.020 is amended to read:

6 “25.020. (1) Support payments for or on behalf of any person that are or-
7 dered, registered or filed under this chapter or ORS chapter 107, 108, 109, 110,
8 416, 419B or 419C, unless otherwise authorized by ORS 25.030, shall be made
9 to the Department of Justice as the state disbursement unit:

10 “(a) During periods for which support is assigned under ORS 412.024,
11 418.032, 419B.406 or 419C.597;

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

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

17 “(d) For any period during which support enforcement services are pro-
18 vided under ORS 25.080;

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

20 “(f) When a support order that is entered or modified on or after January
21 1, 1994, includes a provision requiring the obligor to pay support by income
22 withholding; or

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

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

29 “(b) During a period for which support is assigned under ORS 412.024, for
30 an obligee described in subsection (1)(b) of this section, the department shall

1 disburse to the obligee, from child support collected each month, \$50 for each
2 child up to a maximum of \$200 per family.

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

7 “[*(b) The Department of Justice:*]

8 “[*(A) Shall disburse support payments, to which the obligee is legally en-*
9 *titled, to the collection agency if the obligee submits the completed form re-*
10 *ferred to in paragraph (c)(A) of this subsection to the department;*]

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

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

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

15 “[*(iii) The Department of Consumer and Business Services notifies the De-*
16 *partment of Justice that the collection agency is in violation of the rules*
17 *adopted under ORS 697.086;*]

18 “[*(C) Shall credit the obligor’s account for the full amount of each support*
19 *payment received by the department and disbursed to the collection agency;*
20 *and*]

21 “[*(D) Shall develop the form referred to in paragraph (c)(A) of this sub-*
22 *section, which shall include a notice to the obligee printed in type size equal*
23 *to at least 12-point type that the obligee may be eligible for support enforcement*
24 *services from the department or the district attorney without paying the inter-*
25 *est or fee that is typically charged by a collection agency.*]

26 “[*(c) The obligee shall:*]

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

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

30 “[*(d)*] **(b)** The collection agency:

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

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

8 “(C) May not initiate, without written authorization from the adminis-
9 trator, any enforcement action relating to support payments on which sup-
10 port enforcement services are provided by the administrator under ORS
11 25.080; and

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

15 “[~~(e)~~] (c) The administrator may use information disclosed by the col-
16 lection agency to provide support enforcement services under ORS 25.080.

17 “(4) The Department of Justice may immediately transmit to the obligee
18 payments received from any obligor without waiting for payment or clear-
19 ance of the check or instrument received if the obligor has not previously
20 tendered any payment by a check or instrument that was not paid or was
21 dishonored.

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

25 “(6)(a) The administrator shall provide information about a child support
26 account directly to a party to the support order regardless of whether the
27 party is represented by an attorney. As used in this subsection, ‘information
28 about a child support account’ means the:

29 “(A) Date of issuance of the support order.

30 “(B) Amount of the support order.

1 “(C) Dates and amounts of payments.

2 “(D) Dates and amounts of disbursements.

3 “(E) Payee of any disbursements.

4 “(F) Amount of any arrearage.

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

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

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

12 “(8)(a) Except as provided in paragraphs (d) and (e) of this subsection, a
13 judgment or order establishing paternity or including a provision concerning
14 support must contain:

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

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

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

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

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

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

28 “(B) May request that the administrator review the amount of support
29 ordered after three years, or such shorter cycle as determined by rule of the
30 Department of Justice, or at any time upon a substantial change of circum-

1 stances.

2 “(c) The administrator may require of the parties any additional infor-
3 mation that is necessary for the provision of support enforcement services
4 under ORS 25.080.

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

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

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

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

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

30 “(10) Subject to ORS 25.030, this section, to the extent it imposes any duty

1 or function upon the Department of Justice, shall be deemed to supersede
2 any provisions of ORS chapters 107, 108, 109, 110, 416, 419A, 419B and 419C
3 that would otherwise impose the same duties or functions upon the county
4 clerk or the Department of Human Services.

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

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

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

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

19 “(c) When payments are assigned to another state and that state verifies
20 that payments not paid to the department were received by the other state;
21 or

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

23 “(13) An obligor may apply to the Department of Justice for credit for
24 payments made other than to the Department of Justice. If the obligee or
25 other state does not provide the agreement, sworn statement or verification
26 required by subsection (12) of this section, credit may be given pursuant to
27 order of an administrative law judge assigned from the Office of Adminis-
28 trative Hearings after notice and opportunity to object and be heard are
29 given to both obligor and obligee. Notice shall be served upon the obligee
30 as provided by ORS 25.085. Notice to the obligor may be by regular mail at

1 the address provided in the application for credit. A hearing conducted under
2 this subsection is a contested case hearing and ORS 183.413 to 183.470 apply.
3 Any party may seek a hearing de novo in the circuit court.

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

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

9 “(a) Direct how support payments that are made through the department
10 are to be applied and disbursed; and

11 “(b) Are consistent with federal regulations.”.

12 In line 13, delete “3” and insert “4”.

13
