

SB 517-1
(LC 2155)
1/23/17 (BLS/ps)

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 517**

1 On page 1 of the printed bill, line 2, after the semicolon insert “creating
2 new provisions; and”.

3 Delete lines 5 through 30 and delete pages 2 through 4 and insert:

4 **“SECTION 1.** ORS 25.020 is amended to read:

5 “25.020. (1) Support payments for or on behalf of any person that are or-
6 dered, registered or filed under this chapter or ORS chapter 107, 108, 109, 110,
7 416, 419B or 419C, unless otherwise authorized by ORS 25.030, shall be made
8 to the Department of Justice as the state disbursement unit:

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

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

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

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

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

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

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

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

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

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

15 “(b) The Department of Justice:

16 “(A) Shall disburse support payments, to which the obligee is legally en-
17 titled, to the collection agency if the obligee submits the completed form
18 referred to in paragraph (c)(A) of this subsection to the department;

19 “(B) May reinstate disbursements to the obligee if:

20 “(i) The obligee requests that disbursements be made directly to the
21 obligee;

22 “(ii) The collection agency violates any provision of this subsection; or

23 “(iii) The Department of Consumer and Business Services notifies the
24 Department of Justice that the collection agency is in violation of the rules
25 adopted under ORS 697.086;

26 “(C) Shall credit the obligor’s account for the full amount of each support
27 payment received by the department and disbursed to the collection agency;
28 and

29 “(D) Shall develop the form referred to in paragraph (c)(A) of this sub-
30 section, which shall include a notice to the obligee printed in type size equal

1 to at least 12-point type that the obligee may be eligible for support
2 enforcement services from the department or the district attorney without
3 paying the interest or fee that is typically charged by a collection agency.

4 “(c) The obligee shall:

5 “(A) Provide to the department, on a form approved by the department,
6 information about the agreement with the collection agency; and

7 “(B) Promptly notify the department when the agreement is terminated.

8 “(d) The collection agency:

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

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

16 “(C) May not initiate, without written authorization from the adminis-
17 trator, any enforcement action relating to support payments on which sup-
18 port enforcement services are provided by the administrator under ORS
19 25.080; and

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

23 “(e) The administrator may use information disclosed by the collection
24 agency to provide support enforcement services under ORS 25.080.

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

30 “(5) The Department of Justice shall notify each obligor and obligee by

1 mail when support payments shall be made to the department and when the
2 obligation to make payments in this manner shall cease.

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

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

8 “(B) Amount of the support order.

9 “(C) Dates and amounts of payments.

10 “(D) Dates and amounts of disbursements.

11 “(E) Payee of any disbursements.

12 “(F) Amount of any arrearage.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 “(9)(a) Except as otherwise provided in paragraph (b) of this subsection,

1 in any subsequent child support enforcement action, the court or adminis-
2 trator, upon a showing of diligent effort made to locate the obligor or
3 obligee, may deem due process requirements to be met by mailing notice to
4 the last-known residential, mailing or employer address or contact address
5 as provided in ORS 25.085.

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

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

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

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

18 “(a) When payments are not assigned to this or another state and the
19 obligee and obligor agree in writing that specific payments were made and
20 should be credited, **limited to the current balance owed to the obligee;**

21 “[*(b) When payments are assigned to the State of Oregon, the obligor and*
22 *obligee make sworn written statements that specific payments were made, can-*
23 *celed checks or other substantial evidence is presented to corroborate their*
24 *statements and the obligee has been given prior written notice of any potential*
25 *criminal or civil liability that may attach to an admission of the receipt of*
26 *assigned support;*]

27 “[*(c)*] **(b)** When payments are assigned to another state and that state
28 verifies that payments not paid to the department were received by the other
29 state; or

30 “[*(d)*] **(c)** As provided by rule adopted under ORS 180.345.

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

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

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

17 “(a) Direct how support payments that are made through **or credited by**
18 the department are to be applied and, **if applicable**, disbursed; and

19 “(b) Are consistent with federal regulations.

20 “**SECTION 2. The amendments to ORS 25.020 by section 1 of this**
21 **2017 Act apply to credits made by the Department of Justice on or af-**
22 **ter the effective date of this 2017 Act.”.**

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