

SB 363 A STAFF MEASURE SUMMARY**Carrier:** Sen. Gelser**Senate Committee On Judiciary****Action Date:** 02/13/19**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 7-0-0-0**Yeas:** 7 - Bentz, Fagan, Gelser, Linthicum, Manning Jr, Prozanski, Thatcher**Fiscal:** No fiscal impact**Revenue:** No revenue impact**Prepared By:** Addie Smith, Counsel**Meeting Dates:** 2/13**WHAT THE MEASURE DOES:**

Allows the Oregon Department of Justice Child Support Division administrator to suspend enforcement or hold moneys collected for a possible refund, reallocation, or redistribution when there is an action pending to modify, terminate, satisfy, vacate, or set aside a support order and the resolution of the order would result in a payee receiving more money than due. Requires notice to the parties when the administrator suspends enforcement or holds money collected. Provides for an administrative review of the decision to suspend enforcement or hold money collected. Authorizes the Department of Justice to promulgate rules to support this process. Clarifies that payments "sent to," and not "received from" any person or entity create an overpayment or receivable in favor of the state. Provides for an overpayment or receivable whenever the child support program has disbursed money but is later required to make an accounting adjustment in favor of a refund, reallocation, or redistribution. Permits the child support administrator, when agreed to by the obligee (or when consent by default is granted), to recover overpayment by retaining future disbursements. Takes effect 91 days after sine die; becomes operative January 1, 2020.

ISSUES DISCUSSED:

- Agency will engage stakeholders in the rulemaking process on changes to overpayments procedure; will create a process that ensures some certainty regarding change in custody and provides notice in time for parents to plan for changes in income
- Overpayments occur in more than 10 or 15 percent of cases, but are limited to individuals current on their payment--otherwise the overpayment is absorbed by arrears
- Overpayment can lead to civil matters between two parents adding additional conflict in already tense situations
- Measure pertains to the administrative process
- Date for the purposes of determining when the payments might change under a motion to modify, terminate, satisfy, vacate, or set aside a support order is the date that the proposed order is served on the other person

EFFECT OF AMENDMENT:

Modifies language for accuracy.

BACKGROUND:

In 1975, the Oregon Child Support Program was established under Title IV-D of the Social Security Act. The Program consists of two primary partners, the Oregon Department of Justice Division of Child Support (DCS) and 24 county District Attorney offices. The Department of Justice has had oversight responsibility for the Program since 2003. The program primarily uses administrative processes to establish, modify, and enforce child support orders.

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Several issues have arisen with regard to overpayments. Current statutes provide authority for DCS to suspend enforcement while an action to modify, terminate, satisfy, vacate, or set aside an order is pending and continued collection would result in overpayment to the state or when collection would impair the ability of an obligor who has physical custody of all the children to provide for those children. Statutes do not allow suspension when the result would cause someone to receive more money than owed at the conclusion of the action. Further, under current statutes, the basis for creating the overpayments receivable is "receipt from" a person or entity when the underlying concern is DCS' ability to address overpayments "sent to" a person or entity. Finally, current statutes limit overpayments to specified circumstances that do not encompass all situations in which overpayment can occur and do not allow for recoupment of overpayment agreement or by default from, instead currently requiring "voluntary assignment of," future disbursements as federal law permits.

Senate Bill 363 A allows the child support administrator to suspend enforcement or hold moneys collected for a possible refund, reallocation, or redistribution when there is an action pending to modify, terminate, satisfy, vacate, or set aside a support order to avoid overpayment. It also ensures DCS has the ability to collect overpayments sent to a person or entity, allows for the full range of recovery methods for overpayment, and allows for the recoupment of overpayment by retaining future payments either through agreement or by default.