

# Senate Bill 364

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary for Division of Child Support of the Department of Justice)

## 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**.

Modernizes certain provisions regarding support order enforcement.

## A BILL FOR AN ACT

1  
2 Relating to support order enforcement; amending ORS 25.010, 25.020, 25.084, 25.125, 25.166, 25.220,  
3 25.247, 25.260, 25.287, 25.640, 25.790, 107.108, 107.135 and 416.429.

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

5 **SECTION 1.** ORS 25.010 is amended to read:

6 25.010. As used in ORS chapters 25, 107, 109 and 416 and any other statutes providing for sup-  
7 port payments or support enforcement procedures, unless the context requires otherwise:

8 (1) "Administrator" means either the Administrator of the Division of Child Support of the De-  
9 partment of Justice or a district attorney, or the administrator's or a district attorney's authorized  
10 representative.

11 (2) "Child" has the meaning given that term in ORS 110.503.

12 (3) "Child support rights" means the right to establish or enforce an obligation imposed or  
13 imposable by law to provide support, including but not limited to medical support as defined in ORS  
14 25.321 and an unsatisfied obligation to provide support.

15 (4) "Department" means the Department of Justice.

16 (5) "Disposable income" means that part of the income of an individual remaining after the de-  
17 duction from the income of any amounts required to be withheld by law except laws enforcing  
18 spousal or child support and any amounts withheld to pay medical or dental insurance premiums.

19 (6) "Employer" means any entity or individual who engages an individual to perform work or  
20 services for which compensation is given in periodic payments or otherwise.

21 (7) "Income" is any monetary obligation in excess of \$4.99 after the fee described in ORS 25.414  
22 (6) has been deducted that is in the possession of a third party owed to [*an obligor*] **a person** and  
23 includes but is not limited to:

24 (a) Compensation paid or payable for personal services whether denominated as wages, salary,  
25 commission, bonus or otherwise;

26 (b) Periodic payments pursuant to a pension or retirement program;

27 (c) Cash dividends arising from stocks, bonds or mutual funds;

28 (d) Interest payments;

29 (e) Periodic payments from a trust account;

30 (f) Any program or contract to provide substitute wages during times of unemployment or disa-  
31 bility;

**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) Any payment pursuant to ORS chapter 657; or

2 (h) Amounts payable to independent contractors.

3 (8) "Obligee" has the meaning given that term in ORS 110.503.

4 (9) "Obligor" has the meaning given that term in ORS 110.503.

5 (10) "Order to withhold" means an order or other legal process that requires a withholder to  
6 withhold support from the income of an obligor.

7 (11) "Public assistance" has the meaning given that term in ORS 416.400.

8 (12) "Withholder" means any person who disburses income and includes but is not limited to an  
9 employer, conservator, trustee or insurer of the obligor.

10 **SECTION 2.** ORS 25.020 is amended to read:

11 25.020. (1) Support payments for or on behalf of any person that are ordered, registered or filed  
12 under this chapter or ORS chapter 107, 108, 109, 110, 416, 419B or 419C, unless otherwise authorized  
13 by ORS 25.030, shall be made to the Department of Justice as the state disbursement unit:

14 (a) During periods for which support is assigned under ORS 412.024, 418.032, 419B.406 or  
15 419C.597;

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

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

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

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

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

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

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

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

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

34 (b) The collection agency:

35 (A) May provide investigative and location services to the obligee and disclose relevant infor-  
36 mation from those services to the administrator for purposes of providing support enforcement ser-  
37 vices under ORS 25.080;

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

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

45 (D) Shall include in the agreement with the obligee a notice printed in type size equal to at least

1 12-point type that provides information on the fees, penalties, termination and duration of the  
2 agreement.

3 (c) The administrator may use information disclosed by the collection agency to provide support  
4 enforcement services under ORS 25.080.

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

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

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

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

16 (B) Amount of the support order.

17 (C) Dates and amounts of payments.

18 (D) Dates and amounts of disbursements.

19 (E) Payee of any disbursements.

20 (F) Amount of any arrearage.

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

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

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

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

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

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

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

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

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

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

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

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

43 (d)(A) Upon a finding, which may be made ex parte, that the health, safety or liberty of a party  
44 or child would unreasonably be put at risk by the disclosure of information specified in this sub-  
45 section or by the disclosure of other information concerning a child or party to a parentage or

1 support proceeding or if an existing order so requires, a court or administrator or administrative  
 2 law judge, when the proceeding is administrative, shall order that the information not be contained  
 3 in any document provided to another party or otherwise disclosed to a party other than the state.

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

7 (e) The Chief Justice of the Supreme Court may, in consultation with the Department of Justice,  
 8 adopt rules under ORS 1.002 to designate information specified in this subsection as confidential and  
 9 require that the information be submitted through an alternate procedure to ensure that the infor-  
 10 mation is exempt from public disclosure under ORS 192.355.

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

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

17 (10) Subject to ORS 25.030, this section, to the extent it imposes any duty or function upon the  
 18 Department of Justice, shall be deemed to supersede any provisions of ORS chapters 107, 108, 109,  
 19 110, 416, 419A, 419B and 419C that would otherwise impose the same duties or functions upon the  
 20 county clerk or the Department of Human Services.

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

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

25 [(a)] (A) When payments are not assigned to this or another state and the [obligee] **party to**  
 26 **whom unpaid support is owed** and the obligor agree in writing that specific payments were made  
 27 and should be credited[, *limited to the current balance owed to the obligee*];

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

30 [(c)] (C) As provided by rule adopted under ORS 180.345.

31 **(b) The credit under this subsection may not exceed the current unpaid balance of sup-**  
 32 **port owed to the party that has agreed in writing that payments were made and should be**  
 33 **credited.**

34 (13) An obligor may apply to the Department of Justice for credit for payments made other than  
 35 to the Department of Justice. If the [obligee or other state] **party to whom unpaid support is owed**  
 36 does not provide the agreement or verification required by subsection (12) of this section, credit may  
 37 be given pursuant to order of an administrative law judge assigned from the Office of Administrative  
 38 Hearings after notice and opportunity to object and be heard are given to both **the** obligor and  
 39 [obligee] **the party to whom unpaid support is owed**. Notice shall be served upon the [obligee]  
 40 **party to whom unpaid support is owed** as provided by ORS 25.085. Notice to the obligor may be  
 41 by regular mail at the address provided in the application for credit. A hearing conducted under this  
 42 subsection is a contested case hearing and ORS 183.413 to 183.470 apply. Any party may seek a  
 43 hearing de novo in the circuit court.

44 (14) Nothing in this section precludes the Department of Justice from giving credit for payments  
 45 not made to the department when there has been a judicially determined credit or satisfaction or

1 when there has been a satisfaction of support executed by the person to whom support is owed.

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

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

5 (b) Are consistent with federal regulations.

6 **SECTION 3.** ORS 25.084 is amended to read:

7 25.084. (1) The administrator may provide support enforcement services as described in ORS  
8 25.080 only if support rights have been assigned to the state or if a person has provided a written  
9 application to the administrator that:

10 (a) Is signed by the person; **and**

11 [(b) *Includes the last-known addresses of the obligor and the obligee; and*]

12 [(c)] (b) Indicates that the person is applying for child support services.

13 (2) Any support judgment that provides for payment to the Department of Justice under ORS  
14 25.020 may have an application incorporated in the judgment.

15 **SECTION 4.** ORS 25.125 is amended to read:

16 25.125. (1) The Department of Justice may return moneys to an obligor when the department  
17 determines that the obligor has paid more moneys than are due under a support obligation. How-  
18 ever, when the obligor has an ongoing support obligation, the department may give the obligor  
19 credit for the excess amount paid and apply the credit to the future support obligation until the  
20 credit is fully used. When the department applies a credit to offset a future support obligation, the  
21 department shall so notify the obligee. The notice must inform the obligee that, if the obligee re-  
22 quests, the department will conduct an administrative review to determine if the record keeping and  
23 accounting related to the calculation of the credit balance is correct. The department shall conduct  
24 the administrative review within 30 days after receiving the request.

25 (2) An overpayment in favor of the state is created when the Department of Justice, under ORS  
26 25.020, has transmitted moneys received from, or on behalf of, any person or entity, including but  
27 not limited to an obligor, an obligee [*or a collection agency*], a child support agency of another state  
28 or an agency of this state, and:

29 (a) The amount transmitted is more than the support obligation requires and the Department  
30 of Justice has returned the excess to the obligor under subsection (1) of this section;

31 (b) The Department of Justice has misapplied moneys received; or

32 (c) The amount transmitted is attributable in whole or in part to a tax refund offset collection  
33 all or part of which has been taken back by the Internal Revenue Service or the Department of  
34 Revenue.

35 (3)(a) The person or entity to which the moneys were transmitted owes the amount of the  
36 overpayment to the state. The Department of Justice shall:

37 (A) Attempt to recover the overpayment if it is cost-effective to do so;

38 (B) Notify the person or entity to whom the overpayment was made that the person or entity  
39 owes money to the state and specify the amount of the overpayment to be returned to the depart-  
40 ment; and

41 (C) Give the person or entity opportunity to object.

42 (b) If the person or entity does not file a timely written objection, the overpayment amount de-  
43 termined by the department becomes a liquidated debt and creates an account receivable owed to  
44 the department, and the provisions of subsection (4) of this section apply. If the department does not  
45 resolve an objection to the person's or entity's satisfaction, an administrative law judge assigned

1 from the Office of Administrative Hearings shall hear the objection. An order by the administrative  
2 law judge becomes a liquidated debt and creates an account receivable owed to the department. The  
3 person or entity may appeal the decision of an administrative law judge to the circuit court for a  
4 hearing de novo.

5 (c) Notwithstanding paragraph (a) of this subsection, if an agency of this or another state owes  
6 the overpayment, the agency shall return the amount of the overpayment to the department without  
7 notice and opportunity to object.

8 (4)(a) The amount of the overpayment specified in subsection (3)(a) of this section is a liquidated  
9 debt owed to the state and an associated account receivable. The Department of Justice may recover  
10 the debt by obtaining from the obligee a voluntary assignment of a portion of future support pay-  
11 ments to be applied to the account receivable or in any other way permitted by law.

12 (b) Accounts receivable are considered delinquent for purposes of this subsection and are sub-  
13 ject to the provisions of ORS chapter 293 if:

14 (A) The person or entity fails to make full payment within 90 days of liquidation; or

15 (B) A period of 90 days elapses without a payment as required by a payment agreement between  
16 the department and the obligated person or entity.

17 (5)(a) In addition to the account receivable created under subsection (2) of this section, a debt  
18 in favor of the state and an associated account receivable are created when:

19 (A) The Department of Justice receives payment for support amounts due from an obligor, a  
20 withholder subject to an order to withhold under this chapter or another issuer on behalf of an  
21 obligor;

22 (B) The Department of Justice transmits the amount to any other person or entity; and

23 (C) The payment is dishonored or reversed.

24 (b) When a debt is created under paragraph (a) of this subsection, the amount of money specified  
25 in the payment is owed to the state, and the department may collect the debt from one of the fol-  
26 lowing:

27 (A) The obligor, regardless of who presented the check.

28 (B) The withholder, if the withholder presented the check.

29 (C) The other issuer, if another issuer presented the check.

30 (D) The person or entity to which the amount was transmitted by the department.

31 (c) The Department of Justice shall:

32 (A) Attempt to recover the debt if it is cost-effective to do so;

33 (B) Notify the obligor, withholder or other issuer who made the payment that the person or  
34 entity owes the money to the state; and

35 (C) Specify the amount of the debt to be paid to the department.

36 (d) The amount of the debt specified in paragraph (c) of this subsection is a liquidated debt owed  
37 to the state and an account receivable. The Department of Justice may recover the debt and collect  
38 on the account receivable in any way permitted under law.

39 (e) Accounts receivable are considered delinquent for purposes of this subsection and are subject  
40 to the provisions of ORS chapter 293 when:

41 (A) The person or entity fails to make full payment within 90 days of liquidation; or

42 (B) A period of 90 days elapses without a payment as required by a payment agreement between  
43 the department and the obligated person or entity.

44 (6)(a) When an action is pending to terminate, vacate or set aside a support order or to modify  
45 a support order because of a change in physical custody of the child, the administrator may suspend

1 enforcement of the support order if:

2 (A) Collection of support would result in a credit balance if the motion were granted; or

3 (B) Collection of child support would impair the ability of the obligor with physical custody of  
4 all of the parties' children to provide direct support to the children.

5 (b) The obligee may object, within 14 days after the date of the notice of intent to suspend  
6 enforcement of the support order, only on the grounds that:

7 (A) The child is not in the physical custody of the obligor;

8 (B) The child is in the physical custody of the obligor without the consent of the obligee; or

9 (C) The basis for the suspension of enforcement is factually incorrect.

10 (c) A party may appeal the administrator's decision to suspend or not to suspend enforcement  
11 of the support order under ORS 183.484.

12 (d) As used in this subsection, "credit balance" means that payments have been made in excess  
13 of all amounts owed by an obligor for ongoing and past due child support.

14 (7) The Department of Justice shall adopt rules to carry out the provisions of this section.

15 **SECTION 5.** ORS 25.166 is amended to read:

16 25.166. (1) Any court order or administrative order issued or modified in a proceeding under  
17 ORS chapter 107, 108, 109, 110, 416, 419B or 419C that contains an order for the payment of child  
18 support or spousal support must specify an initial due date and year for the payment of support that  
19 is on the first day of a calendar month, with subsequent payments due on the first day of each  
20 subsequent month for which the support is payable.

21 (2) For purposes of support enforcement, any support payment that becomes due and payable on  
22 a day other than the first day of the month in which the payment is due shall be enforceable by  
23 income withholding as of the first day of that month.

24 (3) Any court order or administrative order that contains an award of child, medical or spousal  
25 support that accrues on other than a monthly basis may, for income withholding and administrative  
26 support billing purposes only, be converted to a monthly amount.

27 (4) Support payments become delinquent only if not paid in full within one month of the payment  
28 due date. A monthly child support obligation that is to be paid in two or more installments does not  
29 become delinquent until the obligation is not paid in full by the due date for the first installment in  
30 the next month. **This subsection does not apply to the accrual of interest under ORS 82.010.**

31 (5) Subsections (2) and (3) of this section do not apply to the determination or issuance of sup-  
32 port arrearage liens, installment arrearage liens, judgment liens, writs of garnishment or any other  
33 action or proceeding that affects property rights under ORS chapter 18.

34 **SECTION 6.** ORS 25.220 is amended to read:

35 25.220. (1) In any proceeding to establish, enforce or modify a support obligation, extrinsic evi-  
36 dence of authenticity is not required as a condition precedent to the admission of a computer  
37 [printout] **record** of the administrator that may reflect the employment records of a parent, the  
38 support payment record of an obligor, the payment of public assistance, the amounts paid, the period  
39 during which public assistance was paid, the persons receiving or having received assistance and  
40 any other pertinent information, if the [printout] **record** bears a seal purporting to be that of the  
41 administrator and is certified as a true copy by original, **electronic** or facsimile signature of a  
42 person purporting to be an officer or employee of the administrator. [Printouts] **Records** certified  
43 in accordance with this section constitute prima facie evidence of the existence of the facts stated  
44 therein.

45 (2) To the extent permitted under federal and state law, obligors and obligees, and their attor-

1 neys, may obtain copies of such [*printouts*] **records** upon request made to the administrator.

2 **SECTION 7.** ORS 25.247 is amended to read:

3 25.247. (1) An obligor who is incarcerated for a period of 180 or more consecutive days shall be  
4 rebuttably presumed unable to pay child support and a child support obligation does not accrue for  
5 the duration of the incarceration unless the presumption is rebutted as provided in this section **or**  
6 **as determined by the court.**

7 (2) The Department of Justice and the Department of Corrections shall enter into an agreement  
8 to conduct data matches to identify the obligors described in subsection (1) of this section [*or as*  
9 *determined by the court*].

10 (3) Within 30 days following identification of an obligor described in subsection (1) of this sec-  
11 tion whose child support obligation has not already been modified due to incarceration, the entity  
12 responsible for support enforcement services under ORS 25.080 shall provide notice of the  
13 presumption to the obligee and obligor and shall inform all parties to the support order that, unless  
14 a party objects as provided in subsection (4) of this section, child support shall cease accruing be-  
15 ginning with the first day of the first month that follows the obligor becoming incarcerated for a  
16 period of at least 180 consecutive days and continuing through the support payment due in the last  
17 month prior to the reinstatement of the support order as provided in subsection (6) of this section.  
18 The entity shall serve the notice on the obligee in the manner provided for the service of summons  
19 in a civil action, by certified mail, return receipt requested, or by any other mail service with de-  
20 livery confirmation and shall serve the notice on the obligor by first class mail to the obligor's  
21 last-known address. The notice shall specify the month in which the obligor became incarcerated  
22 and shall contain a statement that the administrator represents the state and that low-cost legal  
23 counsel may be available.

24 (4) A party may object to the presumption by sending an objection to the entity that served the  
25 notice under subsection (3) of this section within 30 days after the date of service of the notice. The  
26 objection must describe the resources of the obligor or other evidence that rebuts the presumption  
27 of inability to pay child support. The entity receiving the objection shall cause the case to be set  
28 for a hearing before a court or an administrative law judge. The court or administrative law judge  
29 may consider only whether the presumption has been rebutted.

30 (5) If no objection is made, or if the court or administrative law judge finds that the presumption  
31 has not been rebutted, the [*Department of Justice*] **administrator** shall discontinue billing the  
32 obligor for the period of time described in subsection (3) of this section and no arrearage shall ac-  
33 crue for the period during which the obligor is not billed. In addition, the entity providing support  
34 enforcement services shall file with the circuit court in which the support order or judgment has  
35 been entered a copy of the notice described in subsection (3) of this section or, if an objection is  
36 made and the presumption is not rebutted, a copy of the court's or administrative law judge's order.

37 (6) An order that has been suspended as provided in this section will automatically be reinstated  
38 at 50 percent of the previously ordered support amount on the first day of the first month that fol-  
39 lows the 120th day after the obligor's release from incarceration.

40 (7)(a) Within 30 days following reinstatement of the order pursuant to subsection (6) of this  
41 section, the [*Department of Justice*] **administrator** shall provide notice to all parties to the support  
42 order:

43 (A) Specifying the last date on which the obligor was incarcerated;

44 (B) Stating that by operation of law, billing and accrual of support resumed on the first day of  
45 the first month that follows the 120th day after the obligor's release from incarceration; and



1 (C) Informing the parties that the administrator will review the support order for purposes of  
2 modification of the support order as provided in subsection (8) of this section within 60 days fol-  
3 lowing reinstatement of the order.

4 (b) The notice shall include a statement that the administrator represents the state and that  
5 low-cost legal counsel may be available.

6 (c) The entity providing support enforcement services shall file a copy of the notice required by  
7 paragraph (a) of this subsection with the circuit court in which the support order or judgment has  
8 been entered.

9 (8) Within 60 days of the reinstatement under subsection (6) of this section, the administrator  
10 shall review the support order for purposes of modifying the support order.

11 (9) An obligor's incarceration for at least 180 consecutive days or an obligor's release from  
12 incarceration is considered a substantial change of circumstances for purposes of child support  
13 modification proceedings.

14 (10) Proof of incarceration for at least 180 consecutive days is sufficient cause for the adminis-  
15 trator, court or administrative law judge to allow a credit and satisfaction against child support  
16 arrearages for each month that the obligor was incarcerated or that is within 120 days following the  
17 obligor's release from incarceration unless the presumption of inability to pay has been rebutted.

18 (11) Orders modified to zero prior to January 1, 2018, remain in force with reinstatement at the  
19 full amount ordered by the court occurring 61 days after release. Such orders are not subject to  
20 suspension and reinstatement as provided in this section.

21 (12) The provisions of subsections (1), (9) and (10) of this section apply regardless of whether  
22 child support enforcement services are being provided under Title IV-D of the Social Security Act.

23 (13) The Department of Justice shall adopt rules to implement this section.

24 (14) As used in this section, "support order" means a judgment or administrative order that  
25 creates child support rights and that is entered or issued under ORS 416.400 to 416.465, 419B.400  
26 or 419C.590 or this chapter or ORS chapter 107, 108, 109 or 110.

27 **SECTION 8.** ORS 25.260 is amended to read:

28 25.260. (1) As used in this section, "Child Support Program" means:

29 (a) The program described in ORS 180.345;

30 (b) The Administrator of the Division of Child Support of the Department of Justice;

31 (c) A district attorney; and

32 (d) The administrator's or district attorney's authorized representative.

33 (2) Unless otherwise authorized by law, child support records, including data contained in the  
34 Child Support Program's automated system, are confidential and may be disclosed or used only as  
35 necessary for the administration of the program.

36 (3) In administering the Child Support Program, the program may:

37 (a) In accordance with rules adopted under subsection (7) of this section, report abuse as defined  
38 in ORS 419B.005 if the abuse is discovered while providing program services.

39 (b) Extract and receive information from other databases as necessary to carry out the  
40 program's responsibilities under state and federal law.

41 (4) The Child Support Program may compare and share information with public and private en-  
42 tities as necessary to perform the program's responsibilities under state and federal law.

43 (5) The Child Support Program may exchange information with state agencies administering **the**  
44 **following** programs [*funded under Title XIX and Part A of Title IV of the Social Security Act*] as  
45 necessary for the Child Support Program and the state agencies to perform their responsibilities

1 under state and federal law[.]:

2 (a) **Programs funded under Title IV, XIX or XXI of the Social Security Act; and**

3 (b) **The Supplemental Nutrition Assistance Program under ORS 411.806 to 411.845.**

4 (6) In addition to any penalty to which an individual may be subject under ORS 25.990, an em-  
5 ployee of the Department of Justice, of a district attorney or of the Department of Human Services  
6 who discloses or uses the contents of any records in violation of subsection (2) of this section is  
7 subject to discipline, up to and including dismissal from employment.

8 (7) The Department of Justice shall adopt rules consistent with federal regulations governing  
9 confidentiality of Child Support Program information.

10 **SECTION 9.** ORS 25.287 is amended to read:

11 25.287. (1)(a) The entity providing support enforcement services under ORS 25.080 may initiate  
12 proceedings to modify a support obligation to ensure that the support obligation is in accordance  
13 with the formula established under ORS 25.275.

14 (b) Proceedings under this subsection may occur only after three years have elapsed, or such  
15 shorter cycle as determined by rule of the Department of Justice, from the [*later*] **latest** of the fol-  
16 lowing:

17 (A) The date the original support obligation took effect;

18 (B) The date any previous modification of the support obligation took effect; or

19 (C) The date of any previous review and determination under this subsection that resulted in  
20 no modification of the support obligation.

21 (c) For purposes of paragraph (b) of this subsection, a support obligation or modification takes  
22 effect on the first date on which the obligor is to pay the established or modified support amount.

23 (d) The only issues at proceedings under this subsection are whether three years have elapsed,  
24 or such shorter cycle as determined by rule of the department, and whether the support obligation  
25 is in substantial compliance with the formula established under ORS 25.275.

26 (e) Upon review, if the administrator determines that a support obligation does not qualify for  
27 modification under this section, [*a party may object to the determination within 30 days after the date*  
28 *of the determination. A hearing on the objection shall be conducted by an administrative law judge*  
29 *assigned from the Office of Administrative Hearings. Appeal of the order of the administrative law*  
30 *judge may be taken to the circuit court of the county in which the support obligation has been entered*  
31 *or registered for a hearing de novo. The appeal to the court shall be by petition for review filed within*  
32 *60 days after entry of the order of the administrative law judge.] **a party may appeal the**  
33 **administrator's decision under ORS 183.484.***

34 (f) If the court, the administrator or [*the*] **an** administrative law judge finds that more than three  
35 years have elapsed, or such shorter cycle as determined by rule of the department, the court, the  
36 administrator or the administrative law judge shall modify the support order to bring the support  
37 obligation into substantial compliance with the formula established under ORS 25.275, regardless of  
38 whether there has been a substantial change in circumstances since the support obligation was last  
39 established, modified or reviewed. Proceedings by the administrator or administrative law judge  
40 under this subsection shall be conducted according to the provisions of ORS 416.425 and 416.427.

41 (g) The provisions of this subsection apply to any support obligation established by a support  
42 order under this chapter or ORS chapter 107, 108, 109, 110 or 416 or ORS 419B.400 or 419C.590.

43 (2) The entity providing support enforcement services shall state in the document initiating the  
44 proceeding, to the extent known:

45 (a) Whether there is pending in this state or any other jurisdiction any type of support pro-

1 ceeding involving the child, including a proceeding brought under ORS 107.085, 107.135, 107.431,  
 2 108.110, 109.100, 109.103, 109.165, 125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter  
 3 110; and

4 (b) Whether there exists in this state or any other jurisdiction a support order, as defined in  
 5 ORS 110.503, involving the child, other than the support obligation the entity seeks to modify.

6 (3) The entity providing support enforcement services shall include with the document initiating  
 7 the proceeding a certificate regarding any pending support proceeding and any existing support or-  
 8 der other than the support obligation the entity seeks to modify. The entity providing support  
 9 enforcement services shall use a certificate that is in a form prescribed by the administrator and  
 10 shall include information required by the administrator and subsection (2) of this section.

11 (4) The administrator, court or administrative law judge may use the provisions of subsection  
 12 (1) of this section when a support order was entered in another state and registered in Oregon, the  
 13 provisions of ORS chapter 110 apply and more than three years have elapsed, or such shorter cycle  
 14 as determined by rule of the department.

15 (5) Notwithstanding the provisions of this section, proceedings may be initiated at any time to  
 16 modify a support obligation based upon a substantial change of circumstances under any other pro-  
 17 vision of law.

18 (6) The obligee is a party to any action to modify a support obligation under this section.

19 **SECTION 10.** ORS 25.640 is amended to read:

20 25.640. For purposes of ORS 25.643 and 25.646:

21 (1) "Account" means a demand deposit account, checking or negotiable withdrawal order ac-  
 22 count, savings account, share draft account, time deposit account, money-market mutual fund ac-  
 23 count or a claim for insurance benefits or payments of at least \$500, not including a claim for  
 24 property damage, under a liability insurance policy or uninsured motorist insurance policy issued  
 25 by an insurance company authorized to do business in this state.

26 (2) "Claimant" means an obligor who is asserting a claim of at least \$500, not including a claim  
 27 for property damage, under a liability insurance policy or uninsured motorist policy issued by an  
 28 insurer that is authorized to do business in this state.

29 (3) "Customer" has the meaning given that term in ORS 192.583.

30 (4) "Financial institution" means:

31 (a) A depository institution, as defined in section 3(c) of the Federal Deposit Insurance Act (12  
 32 U.S.C. 1813(c));

33 (b) Any federal credit union or state credit union, as defined in section 101 of the Federal Credit  
 34 Union Act (12 U.S.C. 1752), including an institution-affiliated party of such a credit union, as de-  
 35 fined in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r)); [and]

36 (c) **Any person licensed under ORS 717.200 to 717.320, 717.900 and 717.905; and**

37 [(c)] (d) Any benefit association, insurance company, safe deposit company, money-market mutual  
 38 fund or similar entity authorized to do business in this state.

39 (5) "Financial records" means any original written or electronic document or copy of the docu-  
 40 ment, or any information contained in the document, held by or in the custody of a financial insti-  
 41 tution, when the document, copy or information is identifiable as pertaining to one or more  
 42 customers or claimants of the financial institution.

43 **SECTION 11.** ORS 25.790 is amended to read:

44 25.790. (1)(a) An employer shall report to the Division of Child Support of the Department of  
 45 Justice the hiring or rehiring of an individual who resides or works in the state and to whom the

1 employer anticipates paying earnings if the employer:

2 (A) Has employees working only in this state; or

3 (B) Is a multistate employer and has designated to the United States Secretary of Health and  
4 Human Services that Oregon is the employer's reporting state.

5 (b) The employer shall submit the report by mail or other means in accordance with rules  
6 adopted by the Department of Justice.

7 (2)(a) An employer shall make the report required by subsection (1) of this section with respect  
8 to an employee:

9 (A) Not later than 20 days after the date the employer hires or rehires the employee; or

10 (B) In the case of an employer transmitting reports [*magnetically or*] electronically, by trans-  
11 missions each month not less than 12 days nor more than 16 days apart.

12 (b) An employer may submit a cumulative report for all individuals hired or rehired during the  
13 previous reporting period.

14 (3) The report required under subsection (1) of this section may be made on a W-4 form or, at  
15 the option of the employer, an equivalent form approved by the Division of Child Support of the  
16 Department of Justice, but must contain the employer's name, address and federal tax identification  
17 number and the employee's name, address and Social Security number.

18 (4) As used in this section:

19 (a) "Employee" means an individual who must file a federal withholding form W-4 under the  
20 Internal Revenue Code.

21 (b) "Rehire" means to re-employ any individual who was laid off, separated, furloughed, granted  
22 a leave without pay or terminated from employment for more than 60 days.

23 **SECTION 12.** ORS 107.108 is amended to read:

24 107.108. (1) As used in this section:

25 (a) "Child attending school" means a child of the parties who:

26 (A) Is unmarried;

27 (B) Is 18 years of age or older and under 21 years of age;

28 (C) Is making satisfactory academic progress as defined by the school that the child attends; and

29 (D) Has a course load that is no less than one-half of the load that is determined by the school  
30 to constitute full-time enrollment.

31 (b) "Regularly scheduled break" means:

32 (A) A summer semester or term;

33 (B) A period of time not exceeding four months between graduation from or completion of school  
34 and the beginning of the next regularly scheduled term, semester or course of study at school;

35 (C) A period of time between the end and beginning of regularly scheduled consecutive school  
36 semesters, terms or courses of study; or

37 (D) Any other scheduled break between courses of study that is defined by the school as a reg-  
38 ularly scheduled break.

39 (c) "School" means:

40 (A) An educational facility such as a high school, community college, four-year college or uni-  
41 versity;

42 (B) A course of professional, vocational or technical training, including the Job Corps, designed  
43 to fit the child for gainful employment; or

44 (C) A high school equivalency course, including but not limited to a General Educational De-  
45 velopment (GED) program, an educational program for grade 12 or below and home schooling.

1 (2) A support order entered or modified under this chapter or under ORS chapter 25, 108, 109,  
2 110, 125, 416, 419B or 419C may require either parent, or both of them, to provide for the support  
3 or maintenance of a child attending school.

4 (3) Notwithstanding ORS 416.407, a child attending school is a party to any legal proceeding  
5 related to the support order. A child attending school may:

6 (a) Apply for services under ORS 25.080:

7 (A) If a support order provides for the support or maintenance of the child attending school; or

8 (B) In accordance with rules adopted by the Department of Justice;

9 (b) Request a judicial or administrative modification of the child support amount or may receive  
10 notice of and participate in any modification proceeding; and

11 (c) Agree, in the [same] manner [as an obligee] **provided** under ORS 25.020 (12), that payments  
12 not made to the Department of Justice should be credited for amounts that would have been paid  
13 to the child attending school if the payments had been made to the department.

14 (4) Regardless of whether the child is a child attending school, an unmarried child who is 18  
15 years of age or older and under 21 years of age:

16 (a) Is a necessary party to a judicial proceeding under ORS 107.085, 107.135, 107.431, 108.110,  
17 109.103 or 109.165 in which the child's parents are parties and the court has authority to order or  
18 modify support for a child attending school; and

19 (b) May request notice of any proceeding initiated by the administrator to modify a support or-  
20 der that may affect the child's rights as a child attending school. To receive notice, the child shall  
21 provide an address to the administrator, and the administrator shall notify the child of any modifi-  
22 cation proceeding by first class mail. To be a party to a proceeding, the child must send a written  
23 request to the administrator within 30 days after the date of the notice of the proceeding.

24 (5)(a) If a support order provides for the support or maintenance of a child attending school and  
25 the child qualifies as a child attending school, unless good cause is found for the distribution of the  
26 payment to be made in some other manner, support shall be distributed to the child if services are  
27 being provided under ORS 25.080 or shall be paid directly to the child if those services are not being  
28 provided.

29 (b) Unless otherwise ordered by the court, administrator or administrative law judge, when there  
30 are multiple children for whom support is ordered, the amount distributed or paid directly to a child  
31 attending school is a prorated share based on the number of children for whom support is ordered.  
32 However, if, due to a parenting time or split custody arrangement, support was not paid to the  
33 parent having primary physical custody of the child before the child turned 18 years of age, support  
34 may not be distributed or paid directly to the child attending school unless the support order is  
35 modified.

36 (c) The Department of Justice shall adopt rules to define good cause and circumstances under  
37 which the administrator or administrative law judge may allocate support by other than a prorated  
38 share and to determine how support is to be allocated in those circumstances.

39 (6)(a) For support payments to continue to be distributed or paid directly to the child attending  
40 school, the child shall provide to each parent ordered to pay support and, if services are being  
41 provided under ORS 25.080, to the department:

42 (A) Written notice of the child's intent to attend or continue to attend school. The child shall  
43 provide the notice before reaching 18 years of age. The notice must include the name of the school  
44 and the expected graduation date or date when the child will stop attending classes. If the child  
45 changes schools, the child shall provide the information required by this subsection concerning the

1 subsequent school before the expected graduation date or date when the child will stop attending  
2 classes at the previous school.

3 (B) Written consent that:

4 (i) Is directed to the child's school and is in a form consistent with state and federal require-  
5 ments that restrict disclosure of student records;

6 (ii) Gives the school authority to disclose to each parent ordered to pay support the child's en-  
7 rollment status, whether the child is maintaining satisfactory academic progress, a list of courses  
8 in which the child is enrolled and the child's grades; and

9 (iii) States that the disclosure is for the purpose of permitting each parent to verify the child's  
10 compliance with the requirements of this section.

11 (b) The child shall provide the written consent form described in paragraph (a)(B) of this sub-  
12 section within 30 days after the beginning of the first term or semester after the child reaches 18  
13 years of age, at the beginning of each academic year thereafter and as otherwise required by the  
14 school to disclose the information under this section.

15 (c) If an order of nondisclosure of information has been entered concerning the child under ORS  
16 25.020, the child may provide the information described in paragraph (a)(B) of this subsection in the  
17 manner established by the department by rule.

18 (7) Each parent ordered to pay support shall continue to make support payments, to be distrib-  
19 uted or paid directly, to the child during regularly scheduled breaks as long as the child intends to  
20 continue attending school the next scheduled term or semester.

21 (8) A parent's obligation to pay support to a child attending school is suspended when:

22 (a) The child has reached 18 years of age and has not provided written notice of the child's in-  
23 tent to attend or continue to attend school, or the child has graduated or reached the date to stop  
24 attending classes, as provided under subsection (6)(a)(A) of this section;

25 (b)(A) Services are not being provided under ORS 25.080;

26 (B) The parent has provided the child with a written notice of the parent's intent to stop paying  
27 support directly to the child because the child is no longer a child attending school or the child has  
28 not provided the written consent required by subsection (6)(a)(B) of this section; and

29 (C) Thirty days have passed since the parent provided the notice to the child and the parent  
30 has not received:

31 (i) Written confirmation from the school that the child is enrolled in the school and is a child  
32 attending school; or

33 (ii) The written consent from the child as required by subsection (6)(a)(B) of this section;

34 (c)(A) Services are being provided under ORS 25.080;

35 (B) A parent ordered to pay support has provided the department with written notice that the  
36 child is no longer a child attending school or that the child has not provided the written consent  
37 required by subsection (6)(a)(B) of this section;

38 (C) The department has provided written notice to the child requiring:

39 (i) Written confirmation, on a form developed by the department, from the school that the child  
40 is enrolled in the school and is a child attending school; and

41 (ii) Proof that the written consent required by subsection (6)(a)(B) of this section has been pro-  
42 vided to the parent ordered to pay support; and

43 (D) Thirty days have passed since the department provided the notice to the child and the de-  
44 partment has not received:

45 (i) Written confirmation from the school that the child is enrolled in the school and is a child

1 attending school; or

2 (ii) Proof that the written consent required by subsection (6)(a)(B) of this section has been pro-  
3 vided to the parent ordered to pay support.

4 (9) When a parent's support obligation has been suspended under subsection (8) of this section,  
5 the obligation is reinstated:

6 (a) If services are not being provided under ORS 25.080, effective on the date the parent receives  
7 written confirmation from the school that the child is enrolled in the school and is a child attending  
8 school and receives the written consent from the child as required by subsection (6)(a)(B) of this  
9 section; or

10 (b) If services are being provided under ORS 25.080, effective on the date the department re-  
11 ceives written confirmation from the school that the child is enrolled in the school and is a child  
12 attending school and receives proof that the written consent required by subsection (6)(a)(B) of this  
13 section has been provided to the parent ordered to pay support.

14 (10) If a parent ordered to pay support is paying a prorated share under subsection (5) of this  
15 section and that obligation is suspended under subsection (8) of this section, the parent shall pay  
16 to the obligee the amount previously paid to the child attending school until such time as the sup-  
17 port order is modified. The suspension of a parent's obligation to pay support to a child attending  
18 school is a substantial change of circumstances for purposes of modifying a support order. In a  
19 proceeding to modify a support order, the court, administrator or administrative law judge may or-  
20 der a modified amount of support and may order an amount of support to be paid in the event that  
21 a support obligation is reinstated under subsection (9) of this section.

22 (11)(a) If services are being provided under ORS 25.080 and the department has suspended a  
23 support obligation under subsection (8) of this section or reinstated a support obligation under sub-  
24 section (9) of this section, a party may request administrative review of the action within 30 days  
25 after the date of the notice that the department has suspended or reinstated the support obligation.

26 (b) The department may adopt rules specifying the issues that may be considered on review.

27 (c) A party may appeal the department's decision on review under ORS 183.484.

28 (12)(a) Notwithstanding any other provision of this section, if a parent who is required to pro-  
29 vide for the support or maintenance of a child attending school has established a higher education  
30 savings plan for the child's continued education, the court may order payment in accordance with  
31 the plan instead of ordering support that would otherwise be distributed or paid directly to the child  
32 under this section.

33 (b) If the court orders payment in accordance with the plan, the court may not order compliance  
34 with or payment of that provision of the order through the department.

35 (c) As used in this subsection, "higher education savings plan" means a tax-advantaged account  
36 established by a parent on behalf of a child for the purpose of paying qualified higher education  
37 expenses of the child at eligible educational institutions.

38 (13) A support order that provides for the support or maintenance of a child attending school  
39 is subject to this section regardless of when the support order was entered.

40 (14) A support order that provides for the support or maintenance of a child attending school  
41 is intended to recognize the importance of continuing education for a child over 18 years of age who  
42 does not benefit from an intact family or who has been removed from the household. While support  
43 may serve to supplement the resources available to the child attending school, it is not intended to  
44 replace other resources or meet all of the financial needs of a child attending school.

45 **SECTION 13.** ORS 107.135 is amended to read:

1           107.135. (1) The court may at any time after a judgment of annulment or dissolution of marriage  
2 or of separation is granted, upon the motion of either party and after service of notice on the other  
3 party in the manner provided by ORCP 7, and after notice to the Division of Child Support when  
4 required under subsection (9) of this section:

5           (a) Set aside, alter or modify any portion of the judgment that provides for the appointment and  
6 duties of trustees, for the custody, parenting time, visitation, support and welfare of the minor  
7 children and the children attending school, as defined in ORS 107.108, including any health or life  
8 insurance provisions, for the support of a party or for life insurance under ORS 107.820 or 107.830;

9           (b) Make an order, after service of notice to the other party, providing for the future custody,  
10 support and welfare of minor children residing in the state, who, at the time the judgment was given,  
11 were not residents of the state, or were unknown to the court or were erroneously omitted from the  
12 judgment;

13           (c) Terminate a duty of support toward any minor child who has become self-supporting,  
14 emancipated or married;

15           (d) After service of notice on the child in the manner provided by law for service of a summons,  
16 suspend future support for any child who has ceased to be a child attending school as defined in  
17 ORS 107.108; and

18           (e) Set aside, alter or modify any portion of the judgment that provides for a property award  
19 based on the enhanced earning capacity of a party that was awarded before October 23, 1999. A  
20 property award may be set aside, altered or modified under this paragraph:

21           (A) When the person with the enhanced earning capacity makes a good faith career change that  
22 results in less income;

23           (B) When the income of the person with the enhanced earning capacity decreases due to cir-  
24 cumstances beyond the person's control; or

25           (C) Under such other circumstances as the court deems just and proper.

26           (2) When a party moves to set aside, alter or modify the child support provisions of the judg-  
27 ment:

28           (a) The party shall state in the motion, to the extent known:

29           (A) Whether there is pending in this state or any other jurisdiction any type of support pro-  
30 ceeding involving children of the marriage, including one brought under ORS 25.287, 107.431,  
31 109.100, 125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

32           (B) Whether there exists in this state or any other jurisdiction a support order, as defined in  
33 ORS 110.503, involving children of the marriage, other than the judgment the party is moving to set  
34 aside, alter or modify.

35           (b) The party shall include with the motion a certificate regarding any pending support pro-  
36 ceeding and any existing support order other than the judgment the party is moving to set aside,  
37 alter or modify. The party shall use a certificate that is in a form established by court rule and in-  
38 clude information required by court rule and paragraph (a) of this subsection.

39           (3) In a proceeding under this section to reconsider the spousal or child support provisions of  
40 the judgment, the following provisions apply:

41           (a) A substantial change in economic circumstances of a party, which may include, but is not  
42 limited to, a substantial change in the cost of reasonable and necessary expenses to either party, is  
43 sufficient for the court to reconsider its order of support, except that an order of compensatory  
44 spousal support may only be modified upon a showing of an involuntary, extraordinary and unan-  
45 ticipated change in circumstances that reduces the earning capacity of the paying spouse.



1 (b) If the judgment provided for a termination or reduction of spousal support at a designated  
2 age in anticipation of the commencement of pension, Social Security or other entitlement payments,  
3 and if the obligee is unable to obtain the anticipated entitlement payments, that inability is suffi-  
4 cient change in circumstances for the court to reconsider its order of support.

5 (c) If Social Security is considered in lieu of spousal support or partial spousal support, the  
6 court shall determine the amount of Social Security the party is eligible to collect. The court shall  
7 take into consideration any pension, retirement or other funds available to either party to effect an  
8 equitable distribution between the parties and shall also take into consideration any reduction of  
9 entitlement caused by taking early retirement.

10 (4) In considering under this section whether a change in circumstances exists sufficient for the  
11 court to reconsider spousal or child support provisions of a judgment, the following provisions apply:

12 (a) The court or administrator, as defined in ORS 25.010, shall consider income opportunities and  
13 benefits of the respective parties from all sources, including but not limited to:

14 (A) The reasonable opportunity of each party, the obligor and obligee respectively, to acquire  
15 future income and assets.

16 (B) Retirement benefits available to the obligor and to the obligee.

17 (C) Other benefits to which the obligor is entitled, such as travel benefits, recreational benefits  
18 and medical benefits, contrasted with benefits to which the obligee is similarly entitled.

19 (D) Social Security benefits paid to a child, or to a representative payee administering the funds  
20 for the child's use and benefit, as a result of the obligor's disability or retirement if the benefits:

21 (i) Were not previously considered in the child support order; or

22 (ii) Were considered in an action initiated before May 12, 2003.

23 (E) Apportioned Veterans' benefits or Survivors' and Dependents' Educational Assistance under  
24 38 U.S.C. chapter 35 paid to a child, or to a representative payee administering the funds for the  
25 child's use and benefit, as a result of the obligor's disability or retirement if the benefits:

26 (i) Were not previously considered in the child support order; or

27 (ii) Were considered in an action initiated before May 12, 2003.

28 (b) If the motion for modification is one made by the obligor to reduce or terminate support, and  
29 if the obligee opposes the motion, the court shall not find a change in circumstances sufficient for  
30 reconsideration of support provisions, if the motion is based upon a reduction of the obligor's fi-  
31 nancial status resulting from the obligor's taking voluntary retirement, partial voluntary retirement  
32 or any other voluntary reduction of income or self-imposed curtailment of earning capacity, if it is  
33 shown that such action of the obligor was not taken in good faith but was for the primary purpose  
34 of avoiding the support obligation. In any subsequent motion for modification, the court shall deny  
35 the motion if the sole basis of the motion for modification is the termination of voluntarily taken  
36 retirement benefits and the obligor previously has been found not to have acted in good faith.

37 (c) The court shall consider the following factors in deciding whether the actions of the obligor  
38 were not in "good faith":

39 (A) Timing of the voluntary retirement or other reduction in financial status to coincide with  
40 court action in which the obligee seeks or is granted an increase in spousal support.

41 (B) Whether all or most of the income producing assets and property were awarded to the  
42 obligor, and spousal support in lieu of such property was awarded to the obligee.

43 (C) Extent of the obligor's dissipation of funds and assets prior to the voluntary retirement or  
44 soon after filing for the change of circumstances based on retirement.

45 (D) If earned income is reduced and absent dissipation of funds or large gifts, whether the

1 obligor has funds and assets from which the spousal support could have been paid.

2 (E) Whether the obligor has given gifts of substantial value to others, including a current  
3 spouse, to the detriment of the obligor's ability to meet the preexisting obligation of spousal support.

4 (5) Upon terminating a duty of spousal support, a court shall make specific findings of the basis  
5 for the termination and shall include the findings in the judgment.

6 (6) Any modification of child or spousal support granted because of a change of circumstances  
7 may be ordered effective retroactive to the date the motion for modification was served or to any  
8 date thereafter.

9 (7) The judgment is final as to any installment or payment of money that has accrued up to the  
10 time the nonmoving party, other than the state, is served with a motion to [*set aside, alter or*] modify  
11 the judgment. The court may not [*set aside, alter or*] modify any portion of the judgment that pro-  
12 vides for any payment of money, either for minor children or for the support of a party, that has  
13 accrued before the motion is served. However:

14 (a) The court may allow a credit against child support arrearages for periods of time, excluding  
15 reasonable parenting time unless otherwise provided by order or judgment, during which the obligor,  
16 with the knowledge and consent of the obligee or pursuant to court order, has physical custody of  
17 the child; and

18 (b) The court may allow, as provided in the rules of the Child Support Program, a dollar-for-  
19 dollar credit against child support arrearages for any Social Security or Veterans' benefits paid  
20 retroactively to the child, or to a representative payee administering the funds for the child's use  
21 and benefit, as a result of an obligor's disability or retirement.

22 (8) In a proceeding under subsection (1) of this section, the court may assess against either party  
23 a reasonable attorney fee and costs for the benefit of the other party. If a party is found to have  
24 acted in bad faith, the court shall order that party to pay a reasonable attorney fee and costs of the  
25 defending party.

26 (9) Whenever a motion to establish, modify or terminate child support or satisfy or alter support  
27 arrearages is filed and the child support rights of one of the parties or of a child of both of the  
28 parties have been assigned to the state, a true copy of the motion shall be served by mail or per-  
29 sonal delivery on the Administrator of the Division of Child Support of the Department of Justice  
30 or on the branch office providing support services to the county in which the motion is filed.

31 (10)(a) Except as provided in ORS 109.701 to 109.834, the courts of Oregon, having once acquired  
32 personal and subject matter jurisdiction in a domestic relations action, retain such jurisdiction re-  
33 gardless of any change of domicile.

34 (b) The courts of Oregon, in a proceeding to establish, enforce or modify a child support order,  
35 shall recognize the provisions of the federal Full Faith and Credit for Child Support Orders Act (28  
36 U.S.C. 1738B).

37 (11) In a proceeding under this section to reconsider provisions in a judgment relating to cus-  
38 tody or parenting time, the court may consider repeated and unreasonable denial of, or interference  
39 with, parenting time to be a substantial change of circumstances.

40 (12) In a proceeding under this section to reconsider provisions in a judgment relating to par-  
41 enting time, the court may suspend or terminate a parent's parenting time with a child if the court  
42 finds that the parent has abused a controlled substance and that the parenting time is not in the  
43 best interests of the child. If a court has suspended or terminated a parent's parenting time with  
44 a child for reasons described in this subsection, the court may not grant the parent future parenting  
45 time until the parent has shown that the reasons for the suspension or termination are resolved and

1 that reinstated parenting time is in the best interests of the child. Nothing in this subsection limits  
2 the court's authority under subsection (1)(a) of this section.

3 (13) In a proceeding under this section to reconsider provisions in a judgment relating to cus-  
4 tody, temporary placement of the child by the custodial parent pursuant to ORS 109.056 (3) with the  
5 noncustodial parent as a result of military deployment of the custodial parent is not, by itself, a  
6 change of circumstances. Any fact relating to the child and the parties occurring subsequent to the  
7 last custody judgment, other than the custodial parent's temporary placement of the child pursuant  
8 to ORS 109.056 (3) with the noncustodial parent, may be considered by the court when making a  
9 change of circumstances determination.

10 (14) Within 30 days after service of notice under subsection (1) of this section, the party served  
11 shall file a written response with the court.

12 (15)(a) It is the policy of this state:

13 (A) To encourage the settlement of cases brought under this section; and

14 (B) For courts to enforce the terms of settlements described in paragraph (b) of this subsection  
15 to the fullest extent possible, except when to do so would violate the law or would clearly  
16 contravene public policy.

17 (b) In a proceeding under subsection (1) of this section, the court may enforce the terms set  
18 forth in a stipulated order or judgment signed by the parties, an order or judgment resulting from  
19 a settlement on the record or an order or judgment incorporating a settlement agreement:

20 (A) As contract terms using contract remedies;

21 (B) By imposing any remedy available to enforce an order or judgment, including but not limited  
22 to contempt; or

23 (C) By any combination of the provisions of subparagraphs (A) and (B) of this paragraph.

24 (c) A party may seek to enforce an agreement and obtain remedies described in paragraph (b)  
25 of this subsection by filing a motion, serving notice on the other party in the manner provided by  
26 ORCP 7 and, if a remedy under paragraph (b)(B) of this subsection is sought, complying with the  
27 statutory requirements for that remedy. All claims for relief arising out of the same acts or omis-  
28 sions must be joined in the same proceeding.

29 (d) Nothing in paragraph (b) or (c) of this subsection limits a party's ability, in a separate pro-  
30 ceeding, to file a motion to modify an order or judgment under subsection (1) of this section or to  
31 seek enforcement of an ancillary agreement to the order or judgment.

32 **SECTION 14.** ORS 416.429 is amended to read:

33 416.429. (1) The administrator may issue a notice of intent to establish and enforce arrearages  
34 for any support order that is registered, filed or entered in this state. The notice must be served  
35 upon the obligor in the manner prescribed for service of summons in a civil action, mailed to the  
36 obligor at the obligor's last-known address by certified mail, return receipt requested, or by any  
37 other mail service with delivery confirmation. The administrator shall mail the notice to the obligee  
38 by regular mail.

39 (2) The notice shall include:

40 (a) A statement of the name of the caretaker relative or agency and the name of the dependent  
41 child for whom support is to be paid;

42 (b) A statement of the monthly support the obligor is required to pay under the support order;

43 (c) A statement of the arrearages claimed to be owed under the support order;

44 [(d) A demand that the obligor make full payment to the Department of Justice or the clerk of the  
45 court, whichever is appropriate, within 30 days of the receipt or service of the notice;]

