

Chapter 25 — Support Enforcement

2001 EDITION

GENERAL PROVISIONS

- 25.010 Definitions for support enforcement laws
- 25.011 “Address” defined
- 25.015 When payment on support order begins; determining; notification of date
- 25.020 When support payment to be made to Department of Justice; collection agency services; duties of department; credit for payments not made to department; rules
- 25.025 Annual notice to parties receiving services under ORS 25.020
- 25.030 When payment payable to bank account or obligee
- 25.070 Order may include payment of support enforcement fees; limitation
- 25.075 Cooperative agreements with Indian tribes or tribal organizations
- 25.080 Agency primarily responsible for support enforcement services; duties; rules
- 25.081 Access to records with Social Security number
- 25.082 Administrative subpoenas; civil penalty; rules
- 25.083 High-volume automated administrative enforcement services
- 25.085 Service on obligee; methods
- 25.100 Transfer of files to county where party resides or property located
- 25.110 Jurisdiction of circuit court in county to which files transferred
- 25.125 Disposition of support obligation overpayments; rules
- 25.130 Election of alternative support payment method; termination of election
- 25.140 Copies of new or modified support orders to department
- 25.150 Department to collect fees for services
- 25.160 Referral of support cases by district attorney to department; duration of collection services
- 25.164 Payment of support through Department of Justice
- 25.167 Procedure for determining arrearages
- 25.170 Proceedings to require delinquent obligor to appear for examination of financial circumstances

- 25.180 Examination of obligor's financial circumstances
- 25.190 Continuance of proceedings; certification of matter to court; service of notice to obligor and obligee
- 25.200 Arrest of obligor for failure to appear
- 25.210 Use of obligor's property for delinquent support payments
- 25.213 Assignment of proceeds of insurance policy to secure support obligation
- 25.220 Computer printouts of administrator; evidence of authenticity not required in support proceedings; evidentiary effect
- 25.230 Court authorized to require security for support payments
- 25.240 Order to pay support by parent with legal custody of minor
- 25.243 Grievance procedure; rules
- 25.245 Rebuttable presumption of inability to pay child support when parent receiving certain assistance payments; rules
- 25.255 Obligor to provide health insurance; reduction of support for such coverage; notice to insurance provider; duties of insurance provider
- 25.260 Confidentiality of records
- 25.265 Rules regarding access to information in Federal Parent Locator Service

FORMULA FOR DETERMINING AMOUNT OF CHILD SUPPORT

- 25.270 Legislative findings for ORS 25.270 to 25.287
- 25.275 Formula for determining child support awards; criteria to be considered; mandated standards; reduction; rules
- 25.280 Formula amount presumed correct; rebuttal of presumption; criteria
- 25.287 Proceedings to modify orders to comply with formula; when proceeding may be initiated; issues considered
- 25.290 Determining disposable income of obligor; offsets; rules

INCOME WITHHOLDING AND PAYMENT RECORDS

- 25.372 Applicability
- 25.375 Priority of withholding
- 25.378 Payment of support by income withholding; initiation of income withholding
- 25.381 Establishing income withholding as method of paying support; records
- 25.384 Statement on withholding in support order

- 25.387 Withholding more than amount authorized by law
- 25.390 Amendment of support order not required for withholding
- 25.393 Remedy additional to other remedies
- 25.396 Exception to withholding; termination of withholding; rules
- 25.399 Notice of order to withhold; contents of notice
- 25.402 Service of order on withholder; contents
- 25.405 Contesting order to withhold; basis
- 25.408 Withholding is continuing obligation
- 25.411 When withholding begins; payment to Department of Justice or obligee
- 25.414 Standard amount to be withheld; processing fee; rules
- 25.417 Amount to be withheld when obligor paid more frequently than monthly
- 25.421 Procedure if withholder does not withhold support
- 25.424 Liability of withholder for withholding and for failing to withhold; unlawful employment practice; civil penalty
- 25.427 Rules

INCOME TAX INTERCEPT

- 25.610 Procedure to collect support orders from state tax refunds; voluntary withholding; rules
- 25.620 Procedures to collect past due support from state tax refunds; fees
- 25.625 Federal tax offset; passport denial; rules

DISCLOSURES OF INFORMATION BY FINANCIAL INSTITUTIONS

- 25.640 Definitions for ORS 25.643 and 25.646
- 25.643 Disclosure of information on obligors by financial institutions; fees; liability
- 25.646 Disclosure of financial records of customers by financial institutions; liability

CONSUMER REPORTING AGENCIES

- 25.650 Information on past due support to consumer reporting agencies; rules

LIENS ON PERSONAL PROPERTY

- 25.670 Judgment lien on personal property
- 25.680 Effect of lien; priority

25.690 Foreclosure of lien

EXPIRATION OF JUDGMENT

25.700 Expiration of judgment; renewal of judgment; judgment creates continuing personal obligation

MISCELLANEOUS

25.710 Duty of district attorney

25.715 Child support paid from security deposit

25.720 When support assignable

25.725 Child Support Revolving Fund

25.727 Garnishing income of person required to provide health insurance for child eligible under Medicaid

25.729 Application of laws to effectuate purposes of ORS chapter 110

SUSPENSION OF OCCUPATIONAL AND DRIVER LICENSES

25.750 Suspension of licenses, certificates, permits and registrations; when authorized; rules

25.752 Memberships in professional organizations that are required by state law

25.756 Identifying persons holding licenses, certificates, permits and registrations

25.759 Notice to persons subject to suspension; contents

25.762 Agreement between obligor and administrator; effect of failure to contest suspension or to enter into agreement

25.765 Procedure if obligor contacts administrator within time limits; hearing

25.768 Judicial review of order

25.771 Obligor holding more than one license, certificate, permit or registration

25.774 Reinstatement

25.777 Reimbursing issuing entities for costs incurred

25.780 Other licenses, certificates, permits and registrations subject to suspension

25.783 Confidentiality of information

25.785 Issuing entities to require Social Security number

EMPLOYER REPORTING PROGRAM

25.790 Hiring or rehiring individual; report required; contents

25.792 Confidentiality

25.794 Verification of employment; information about compensation and benefits; rules

PENALTIES

25.990 Penalties

GENERAL PROVISIONS

25.010 Definitions for support enforcement laws. As used in ORS chapters 25, 107, 109, 110 and 416 and any other statutes providing for support payments or support enforcement procedures, unless the context requires otherwise:

(1) “Administrator” means either the Administrator of the Division of Child Support of the Department of Justice or a district attorney, or the administrator’s or a district attorney’s authorized representative.

(2) “Child support rights” means the right to establish or enforce an obligation imposed or imposed by law to provide support, including but not limited to medical support and an unsatisfied obligation to provide support.

(3) “Department” means the Department of Justice.

(4) “Disposable income” means that part of the income of an individual remaining after the deduction from the income of any amounts required to be withheld by law except laws enforcing spousal or child support and any amounts withheld to pay medical or dental insurance premiums.

(5) “Employer” means any entity or individual who engages an individual to perform work or services for which compensation is given in periodic payments or otherwise.

(6) “Income” is any monetary obligation in excess of \$4.99 after the fee described in ORS 25.414 (6) has been deducted that is in the possession of a third party owed to an obligor and includes but is not limited to:

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

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

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

(d) Interest payments;

(e) Periodic payments from a trust account;

(f) Any program or contract to provide substitute wages during times of unemployment or disability;

(g) Any payment pursuant to ORS chapter 657; or

(h) Amounts payable to independent contractors.

(7) “Obligee” means a child or caretaker parent or custodian, spouse, former spouse or other dependent person for whose benefit a court or the administrator has ordered a payment of support.

(8) “Obligor” means any person who has been ordered by a court or the administrator to make payments for the support of a child or a caretaker parent or custodian, spouse, former spouse or other dependent person.

(9) “Order to withhold” means an order or other legal process that requires a withholder to withhold support from the income of an obligor.

(10) “Withholder” means any person who disburses income and includes but is not limited to an employer, conservator, trustee or insurer of the obligor. [Formerly 23.760; 1991 c.362 §1; 1993 c.798 §4; 1995 c.608 §1; 1997 c.704 §13; 1999 c.80 §1; 2001 c.334 §2; 2001 c.455 §1]

25.011 “Address” defined. As used in ORS chapters 25, 106, 107, 108, 109, 110 and 416, when a person is required to provide an address, “address” means a residence, mailing or contact address in the same state as the person’s home. [1993 c.448 §1; 1995 c.608 §25]

Note: 25.011 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 25 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

25.015 When payment on support order begins; determining; notification of date. (1) The Department of Justice shall notify the parties to a support order that payment is to commence on the first due date following the date of the notice when:

(a) The department receives a copy of a support order of a court that requires payments to be made through the

department or for which there is an application for support enforcement services;

(b) The department commences accounting services; and

(c) The order has been entered within the previous 180 days.

(2) The department shall include in the notice under subsection (1) of this section a statement that no later than 60 days after the date of the notice the department shall adjust the account to reflect an accrued arrearage for the period of time between the effective date of the order and the date of the notice unless a party requests that the department establish the arrearage on the account as provided in ORS 25.167 or 416.429.

(3) If, within 60 days after the date of the notice under subsection (1) of this section, a party requests the department to establish the arrearage as provided in ORS 25.167 or 416.429, the department may not reflect an accrued arrearage on the account until the arrearage has been established.

(4) If a party does not request the department to establish the arrearage as provided in subsection (3) of this section, the department shall adjust the account to reflect the arrearage for the period of time between the effective date of the order and the date of the notice. [1997 c.500 §2; 1999 c.18 §4]

25.020 When support payment to be made to Department of Justice; collection agency services; duties of department; credit for payments not made to department; rules. (1) Support payments for or on behalf of any person, ordered, registered or filed pursuant to ORS chapter 25, 107, 108, 109, 110, 416, 419B or 419C, unless otherwise authorized by ORS 25.030, shall be made to the Department of Justice, as the state disbursement unit:

(a) During periods for which support is assigned pursuant to ORS 418.032, 418.042, 419B.406 or 419C.597;

(b) As provided by rules adopted pursuant to ORS 409.021 or under ORS 180.340, when public assistance as defined by ORS 411.010 is provided to a person who receives or has a right to receive support payments on the person's own behalf or on behalf of another person;

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

(d) For any period during which support enforcement services are provided pursuant to the child support enforcement program created by Title IV-D of the Social Security Act or pursuant to ORS 25.080;

(e) When ordered by the court pursuant to ORS 419B.400;

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

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

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

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

(b) The department:

(A) Except as otherwise provided in this paragraph, shall disburse support payments, to which the obligee is legally entitled, to the collection agency according to the terms of the agreement between the obligee and the collection agency;

(B) May not disburse moneys to the collection agency before the obligee submits the form referred to in paragraph (c)(A) of this subsection to the department and the department adjusts its support payment records;

(C) May not disburse moneys to the collection agency after 180 days following the date the department adjusts its support payment records as described in subparagraph (B) of this paragraph;

(D) May not disburse moneys to the collection agency if the collection agency violates any provision of this subsection;

(E) Shall credit the obligor's account for the full amount of each support payment received by the department and disbursed to the collection agency;

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

(G) May use information disclosed by the collection agency to provide support enforcement services under ORS 25.080.

(c) The obligee shall:

(A) Provide to the department, on a form approved by the department, information about the agreement with the

collection agency; and

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

(d) The collection agency:

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

(B) May not charge interest or a fee for its services exceeding 20 percent of each support payment received; and

(C) May not initiate, without written authorization from the department, any enforcement action relating to support payments on which support enforcement services are provided by the department under ORS 25.080.

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

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

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

(A) Date of issuance of the support order.

(B) Amount of the support order.

(C) Dates and amounts of payments.

(D) Dates and amounts of disbursements.

(E) Payee of any disbursements.

(F) Amount of any arrearage.

(G) Source of any collection.

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

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

(8)(a) Except as provided in paragraph (d) of this subsection, a decree or order establishing paternity or including a provision concerning support shall contain the residence, mailing or contact address, Social Security number, telephone number and driver license number of each party and the name, address and telephone number of all employers of each party.

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

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

(B) May request that the administrator review the amount of support ordered after two years or at any time upon a substantial change of circumstances.

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

(d)(A) Upon a finding, that may be made ex parte, that the health, safety or liberty of a party or child would unreasonably be put at risk by the disclosure of information specified in this subsection or by the disclosure of other information concerning a child or party to a paternity or support proceeding or if an existing order so requires, a court or administrator or hearing officer, when the proceeding is administrative, shall order that the information not be contained in any document provided to another party or otherwise disclosed to a party other than the state.

(B) The Department of Human Services shall adopt rules providing for similar confidentiality for information described in subparagraph (A) of this paragraph that is maintained by an entity providing support enforcement services under ORS 25.080.

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

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

(10) Subject to ORS 25.030, this section, to the extent it imposes any duty or function upon the Department of Justice, shall be deemed to supersede any provisions of ORS chapters 107, 108, 109, 110, 416, 419A, 419B and 419C

that would otherwise impose the same duties or functions upon the county clerk or the Department of Human Services.

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

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

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

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

(c) Payments are assigned to another state and that state verifies that payments not paid to the Department of Justice were received by the other state; or

(d) As provided by rule adopted pursuant to ORS 409.021 or under ORS 180.340.

(13) An obligor may apply to the Department of Justice for credit for payments made other than to the Department of Justice. If the obligee or other state does not provide the agreement, sworn statement or verification required by subsection (12) of this section, credit may be given pursuant to order of a hearing officer assigned from the Hearing Officer Panel established under section 3, chapter 849, Oregon Laws 1999, after notice and opportunity to object and be heard are given to both obligor and obligee. Notice shall be served upon the obligee as provided by ORS 25.085. Notice to the obligor may be by regular mail at the address provided in the application for credit. A hearing conducted under this subsection is a contested case hearing and ORS 183.413 to 183.470 apply. Any party may seek a hearing de novo in the circuit court.

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

(15) The Department of Human Services shall adopt rules that:

(a) Direct how support payments that are made through the Department of Justice are to be applied and distributed; and

(b) Are consistent with federal regulations. [Formerly 23.765; 1991 c.724 §19; 1993 c.33 §366; 1993 c.448 §2; 1993 c.596 §1; 1995 c.608 §2; 1997 c.704 §14; 1999 c.18 §1; 1999 c.80 §42; 1999 c.798 §1; 2001 c.322 §1; 2001 c.455 §2; 2001 c.961 §1]

Note: The amendments to 25.020 by section 3, chapter 455, Oregon Laws 2001, become operative January 1, 2004. See section 4, chapter 455, Oregon Laws 2001. The text that is operative on and after January 1, 2004, is set forth for the user's convenience.

25.020. (1) Support payments for or on behalf of any person, ordered, registered or filed pursuant to ORS chapter 25, 107, 108, 109, 110, 416, 419B or 419C, unless otherwise authorized by ORS 25.030, shall be made to the Department of Justice, as the state disbursement unit:

(a) During periods for which support is assigned pursuant to ORS 418.032, 418.042, 419B.406 or 419C.597;

(b) As provided by rules adopted pursuant to ORS 409.021 or under ORS 180.340, when public assistance as defined by ORS 411.010 is provided to a person who receives or has a right to receive support payments on the person's own behalf or on behalf of another person;

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

(d) For any period during which support enforcement services are provided pursuant to the child support enforcement program created by Title IV-D of the Social Security Act or pursuant to ORS 25.080;

(e) When ordered by the court pursuant to ORS 419B.400;

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

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

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

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

(b) The department:

(A) Except as otherwise provided in this paragraph, shall disburse support payments, to which the obligee is legally entitled, to the collection agency according to the terms of the agreement between the obligee and the collection agency;

(B) May not disburse moneys to the collection agency before the obligee submits the form referred to in paragraph (c)(A) of this subsection to the department and the department adjusts its support payment records;

(C) May not disburse moneys to the collection agency after 180 days following the date the department adjusts its support payment records as described in subparagraph (B) of this paragraph;

(D) May not disburse moneys to the collection agency if the collection agency violates any provision of this subsection;

(E) Shall credit the obligor's account for the full amount of each support payment received by the department and disbursed to the collection agency;

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

(G) May use information disclosed by the collection agency to provide support enforcement services under ORS 25.080.

(c) The obligee shall:

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

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

(d) The collection agency:

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

(B) May not charge interest or a fee for its services exceeding 20 percent of each support payment received; and

(C) May not initiate, without written authorization from the department, any enforcement action relating to support payments on which support enforcement services are provided by the department under ORS 25.080.

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

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

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

(A) Date of issuance of the support order.

(B) Amount of the support order.

(C) Dates and amounts of payments.

(D) Dates and amounts of disbursements.

(E) Payee of any disbursements.

(F) Amount of any arrearage.

(G) Source of any collection.

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

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

(8)(a) Except as provided in paragraph (d) of this subsection, a decree or order establishing paternity or including a provision concerning support shall contain the residence, mailing or contact address, Social Security number, telephone number and driver license number of each party and the name, address and telephone number of all employers of each party.

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

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

(B) May request that the administrator review the amount of support ordered after two years or at any time upon a substantial change of circumstances.

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

(d)(A) Upon a finding, that may be made ex parte, that the health, safety or liberty of a party or child would unreasonably be put at risk by the disclosure of information specified in this subsection or by the disclosure of other information concerning a child or party to a paternity or support proceeding or if an existing order so requires, a court or administrator or hearing officer, when the proceeding is administrative, shall order that the information not be contained in any document provided to another party or otherwise disclosed to a party other than the state.

(B) The Department of Human Services shall adopt rules providing for similar confidentiality for information described in subparagraph (A) of this paragraph that is maintained by an entity providing support enforcement services under ORS 25.080.

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

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

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

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

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

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

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

(c) Payments are assigned to another state and that state verifies that payments not paid to the Department of Justice were received by the other state; or

(d) As provided by rule adopted pursuant to ORS 409.021 or under ORS 180.340.

(13) An obligor may apply to the Department of Justice for credit for payments made other than to the Department of Justice. If the obligee or other state does not provide the agreement, sworn statement or verification required by subsection (12) of this section, credit may be given pursuant to order of a hearing officer of the Department of Human Services after notice and opportunity to object and be heard are given to both obligor and obligee. Notice shall be served upon the obligee as provided by ORS 25.085. Notice to the obligor may be by regular mail at the address provided in the application for credit. A hearing conducted under this subsection is a contested case hearing and ORS 183.413 to 183.470 apply. Any party may seek a hearing de novo in the circuit court.

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

(15) The Department of Human Services shall adopt rules that:

(a) Direct how support payments that are made through the Department of Justice are to be applied and distributed; and

(b) Are consistent with federal regulations.

25.025 Annual notice to parties receiving services under ORS 25.020. Once each year, the Department of Human Services shall notify the parties in child support cases receiving services under ORS 25.020 of all the following:

(1) When physical custody of a child changes from the obligee to the obligor, the obligation to pay child support for the child is not automatically terminated.

(2) When a physical change of custody of a child occurs, either party may request a modification of the support order to terminate support based on a substantial change of circumstances.

(3) At the request of either party, child support may be established for the parent with current physical custody of the child.

(4) If a change in the physical custody of a child is temporary, the obligee may satisfy support accruing for the child for periods that the child is in the physical custody of the obligor as provided in ORS 18.400. [1997 c.385 §4]

Note: 25.025 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 25 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

25.030 When payment payable to bank account or obligee. Support orders in respect of obligees not subject to ORS 25.020 may provide for payment under the order:

(1) To a checking or savings account pursuant to ORS 25.130, if the obligor and obligee have so elected or if the court in its discretion believes that checking or savings account payment will be in the best interest of the parties; or

(2) Directly to the obligee by deposit into the obligee's bank account. [Formerly 23.767; 1989 c.976 §36; 1991 c.230 §32; 1997 c.872 §4; 1999 c.80 §78]

25.040 [Formerly 23.775; 1993 c.33 §281; 1993 c.448 §3; repealed by 1999 c.80 §95]

25.050 [Formerly 23.777; 1989 c.633 §4; 1989 c.726 §4; 1991 c.519 §1; repealed by 1993 c.798 §21]

25.060 [Formerly 23.780; repealed by 1999 c.80 §95]

25.070 Order may include payment of support enforcement fees; limitation. Any decree, judgment or order entered in a proceeding for the enforcement of any delinquent support obligation, including an order entered under ORS 25.378, shall include, on the motion of the Division of Child Support of the Department of Justice or the district attorney, if either has appeared in the case, an order for payment of any support enforcement fees required by law in addition to any other costs chargeable to the obligor, and in addition to the support obligation. The Department of Justice shall deduct the amount of any previously imposed support enforcement fees from any payment subsequently made by the obligor but the amount of the deduction shall not exceed 25 percent of any payment. The support enforcement fee, when collected, shall be paid to the Division of Child Support of the Department of Justice or the district attorney, whichever appeared in the case. [Formerly 23.787; 1993 c.798 §34; 1997 c.704 §15; 1999 c.80 §79]

25.075 Cooperative agreements with Indian tribes or tribal organizations. (1) Notwithstanding the provisions of ORS 25.080, the Department of Human Services may enter into cooperative agreements with Indian tribes or tribal organizations within the borders of this state, if the Indian tribe or tribal organization demonstrates that the tribe or organization has an established tribal court system or a Court of Indian Offenses with the authority to:

(a) Establish paternity;

(b) Establish, modify and enforce support orders; and

(c) Enter support orders in accordance with child support guidelines established by the tribe or organization.

(2) The agreements must provide for the cooperative delivery of child support enforcement services and for the forwarding of all child support collections pursuant to the functions performed by the tribe or organization to the department, or conversely, by the department to the tribe or organization, which shall distribute the child support collections in accordance with such agreement. [1997 c.746 §131; 1999 c.735 §5]

Note: 25.075 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 25 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

25.080 Agency primarily responsible for support enforcement services; duties; rules. (1) This subsection describes the entity primarily responsible for providing support enforcement services described in subsection (4) of this section for any order or decree that is or could be entered under ORS chapter 107, 108, 109, 110 or 416 or ORS 419B.400 or 419C.590. The entity shall provide the support enforcement services described in subsection (4) of this section on behalf of the State of Oregon and no other party or either parent. The following entity is primarily responsible:

(a) The Division of Child Support of the Department of Justice:

(A) If support rights are, or were within the past five months, assigned to the Department of Human Services, the

Oregon Youth Authority or a public assistance agency of another state; or

(B) In any case where arrearage under a support order is assigned or owed to or the right to recover back support or state debt is held by a government agency.

(b) Except as provided in subsection (5) of this section, the district attorney in cases other than those described in paragraph (a) of this subsection if the obligee, obligor, beneficiary or person having physical custody of a minor child regarding any support order that has been imposed or could be imposed requests support enforcement services.

(2) The Department of Human Services shall establish rules addressing the provision of support enforcement services when the purposes of the state in providing those services may be contradictory in individual cases.

(3) Notwithstanding the division of responsibility for providing support enforcement services between the Division of Child Support of the Department of Justice and the district attorney as described in subsection (1) of this section, provision of support enforcement services shall not be challenged on the basis that the entity providing the services in a particular case is not the entity responsible for the case under subsection (1) of this section.

(4) When responsible for providing support enforcement services and there is sufficient evidence available to support the action to be taken, the entity described in subsection (1) of this section:

(a) Shall establish and enforce any child support obligation;

(b) Shall establish paternity;

(c) Shall enforce spousal support when the obligee is living with the obligor's child for whom support enforcement services are being provided and those services are funded in part by federal moneys;

(d) May enforce any other order or decree for spousal support;

(e) Shall, on behalf of the state, initiate and respond to child support modification proceedings based upon a substantial change of circumstances;

(f) Shall, on behalf of the state, initiate and respond to child support modification proceedings based upon a modification conducted under ORS 25.287 concerning existing child support orders;

(g) Shall establish and enforce obligations to provide medical insurance coverage for dependent children;

(h) Shall insure compliance with the provisions of 42 U.S.C. 651 to 669 and 45 C.F.R. Chapter III as authorized by state law;

(i) Shall carry out the policy of the State of Oregon regarding child support obligations as expressed in ORS 416.405; and

(j) Shall insure that child support orders are in compliance with the formula established by this chapter.

(5) The district attorney of any county, the Department of Human Services and the Division of Child Support of the Department of Justice may provide by agreement for assumption by the Division of Child Support of the functions of the district attorney under subsection (1) of this section or for redistribution between the district attorney and the Division of Child Support of all or any portion of the duties, responsibilities and functions set forth in subsections (1) and (4) of this section.

(6) All county governing bodies and all district attorneys shall enter into child support cooperative agreements with the Department of Human Services. The following apply to this subsection:

(a) The agreements shall contain appropriate terms and conditions sufficient for the state to comply with all child support enforcement service requirements under federal law; and

(b) If this state loses any federal funds due to the failure of a county governing body or district attorney to either enter into an agreement under this subsection or to provide sufficient support enforcement service, the county shall be liable to the department for, and the liability shall be limited to, the amount of money the state determines it lost because of the failure. The state shall offset the loss from any moneys the state is holding for or owes the county or from any moneys the state would pay to the county for any purpose.

(7) The district attorney or the Division of Child Support, whichever is appropriate, shall provide the services specified in subsections (1) and (4) of this section to any person requesting them, but may in their discretion, upon a determination and notice to the person requesting the service that prospect of successful recovery from the obligor of a portion of the delinquency or future payments is remote, require payment to the district attorney or the Division of Child Support of an application fee, in accordance with an application fee schedule established by rule by the Department of Human Services. If service performed results in the district attorney or the Division of Child Support recovering any support enforcement fees, such fees shall be paid to the applicant in an amount equal to the amount of the application fee.

(8) An obligee may request the Division of Child Support of the Department of Justice or a district attorney to cease all collection efforts if it is anticipated that physical or emotional harm will be caused to the parent or caretaker relative or the child for whom support was to have been paid. The Department of Human Services, by rule, shall set

out the circumstances under which such requests shall be honored. [Formerly 23.790; 1991 c.758 §1; 1993 c.33 §367; 1995 c.608 §9; 1997 c.704 §16; 2001 c.900 §236]

25.081 Access to records with Social Security number. (1) Notwithstanding any other provision of law, an entity providing support enforcement services under ORS 25.080 shall have access, using a Social Security number as an identifier, to any record required by law to contain the Social Security number of an individual.

(2) To the maximum extent feasible, a public body maintaining records described in ORS 25.785, including automated records, shall make the records accessible by Social Security number for purposes of support enforcement.

(3) For purposes of this section, “public body” has the meaning given that term in ORS 192.410. [1997 c.746 §118]

Note: 25.081 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 25 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

25.082 Administrative subpoenas; civil penalty; rules. (1) When services are being provided pursuant to Title IV-D of the Social Security Act, the enforcing agency of this or any other state may subpoena financial records and other information needed to establish paternity or to establish, modify or enforce a support order. The subpoena may be served on a party or on a public or private entity. Service of the subpoena may be by certified mail.

(2) A party or public or private entity that discloses information to the enforcing agency in compliance with a subpoena served pursuant to subsection (1) of this section is not liable to any person for any loss, damage or injury arising out of the disclosure.

(3) Upon request of an enforcing agency of another state, only a court or enforcing agency of Oregon may enforce a subpoena issued by the enforcing agency of the other state.

(4) Notwithstanding ORS 192.575, a party or public or private entity that fails without good cause to comply with a subpoena issued under this section is subject to a civil penalty not to exceed \$250. A civil penalty under this section must be imposed in the manner provided by ORS 183.090.

(5) The Department of Human Services shall adopt rules to implement the provisions of this section. [1997 c.746 §33]

Note: 25.082 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 25 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

25.083 High-volume automated administrative enforcement services. (1) As necessary to meet the requirements of 42 U.S.C. 666(a)(14), the Division of Child Support of the Department of Justice, when requested by another state, shall provide high-volume automated administrative enforcement services. In providing services to another state under this section, the division may:

(a) Through automated data matches with financial institutions and other entities where assets may be found, identify assets owned by persons who owe child support in other states; and

(b) Seize such assets through levy or by other appropriate processes. For purposes of this paragraph, “levy” means the process for garnishment under ORS 18.600 to 18.850 or execution under ORS 23.050 (2) or such other processes to seize property as the division is authorized by law to use.

(2) A request by another state for services provided under subsection (1) of this section:

(a) Must include information, as required by rule, that will enable the department to compare the information about the case with information in databases within Oregon; and

(b) Constitutes a certification by the state requesting the services:

(A) Of the amount of periodic support under an order, the payment of which is in arrears; and

(B) That it has complied with all procedural due process requirements applicable to the case.

(3) The administrator is authorized to request from other states services of the type provided under subsection (1) of this section. [1999 c.930 §2; 2001 c.249 §71]

25.085 Service on obligee; methods. (1) In any proceeding under ORS 25.080 service of legal documents upon an obligee may be by regular mail to the address at which the obligee receives public assistance as defined in ORS 411.010, or to an address provided by an obligee on the obligee’s application for child support enforcement services, or to any other address given by the obligee. When service is authorized by regular mail under this section, proof of

service may be by notation upon the computerized case record made by the person making the mailing. The notation shall set forth the address to which the documents were mailed, the date they were mailed, the description of the documents mailed and the name of the person making the notation. If the documents are returned by the postal service as undeliverable as addressed, that fact shall be noted on the computerized case record. If no new address for service by regular mail can be obtained, service shall be by certified mail, return receipt requested or by personal service upon the obligee.

(2) Notwithstanding any other provision of this chapter or ORS chapter 110 or 416, when a case is referred to this state by a public child support agency of another state for action in this state, there is no requirement that an obligee, present in the initiating state and receiving child support enforcement services from that state, be served in any action taken in this state as a consequence of the interstate referral. In such cases the requirement to serve the obligee that would otherwise apply is satisfied by sending to the initiating agency in the other state, by regular mail, any documents that would otherwise be served upon the obligee.

(3) The appropriate child support agency of the state shall make any mailings to or service upon the obligee that is required by this section. [1993 c.596 §17; 1995 c.608 §26; 1997 c.249 §16; 1999 c.87 §1]

Note: 25.085 was added to and made a part of ORS chapter 25 by legislative action but was not added to any series therein. See Preface to Oregon Revised Statutes for further explanation.

25.090 [Formerly 23.790; repealed by 1999 c.80 §95]

25.100 Transfer of files to county where party resides or property located. (1) With respect to any order or decree entered or docketed pursuant to ORS 107.095, 107.105, 108.120, 109.155, 416.400 to 416.470, 419B.400 or 419C.590 or ORS chapter 110, if a party seeking modification or enforcement of an order or decree for the payment of money files a certificate to the effect that a party is presently in another county of this state, the court may, upon motion of the party, order that certified copies of the files, records and prepared transcripts of testimony in the original proceeding be transmitted to the clerk of the circuit court of any county in this state in which the obligee or obligor resides, or in which property of the obligor is located.

(2) Any files, records and prepared transcripts of testimony maintained in the county to which certified copies have been transmitted as provided in subsection (1) of this section shall be auxiliary to those maintained in the county of origin, whose files, records and prepared transcripts shall remain the official record.

(3) The original of any order entered in the auxiliary county under ORS 25.110 shall be entered in the files and records of the auxiliary county and certified copies thereof shall be forwarded to the county of origin for filing. The party submitting the original order for signature shall submit an extra copy for forwarding by the clerk and shall indicate on that copy where it is to be forwarded.

(4) Notwithstanding any file number assigned in the auxiliary county for purposes of identification, the file number assigned in the county of origin shall be the reference number for all purposes including support payment records in the Department of Justice. [Formerly 23.795; 1993 c.33 §283; 1995 c.608 §27; 1995 c.609 §4; 1997 c.704 §18; 1999 c.80 §43]

25.110 Jurisdiction of circuit court in county to which files transferred. (1) Upon receipt of such certified copies referred to in ORS 25.100, the circuit court of the county to which such certified copies have been transmitted shall have jurisdiction to compel compliance with such order or decree the same as if it were the court which made and entered the original order or decree for the payment of support. The only court having jurisdiction to modify any provision of the original order or decree is the court having original jurisdiction of the cause in which such order or decree was entered or the circuit court of the county in which either party resides if that court has received the certified copies referred to in ORS 25.100.

(2) The provisions of ORS 25.100 (2) to (4) shall apply to this section. [Formerly 23.800]

25.120 [Formerly 23.805; 1993 c.33 §284; repealed by 1999 c.80 §95]

25.125 Disposition of support obligation overpayments; rules. (1) The Department of Human Services may return moneys to an obligor when the department determines that the obligor has paid more moneys than are due under a support obligation. However, when the obligor has an ongoing support obligation, the department may give the obligor credit for the excess amount paid and apply the credit to the future support obligation until the credit is fully

used. When the department applies a credit to offset a future support obligation, the department shall so notify the obligee. The notice must inform the obligee that, if the obligee requests, the department will conduct an administrative review to determine if the record keeping and accounting related to the calculation of the credit balance is correct. The department shall conduct the administrative review within 30 days after receiving the request.

(2) An overpayment in favor of the state is created when the department, under ORS 25.020, has transmitted moneys received from an obligor to an obligee or a collection agency, a child support agency of another state or an agency of this state and:

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

(b) The department has misapplied moneys received; or

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

(3)(a) The obligee or the agency to whom the moneys were transmitted owes the amount of the overpayment to the state. The Department of Human Services:

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

(B) Shall notify the obligee or the agency to whom the overpayment was made that the obligee or agency owes money to the state and specify the amount of the overpayment to be returned to the department; and

(C) Shall give the obligee opportunity to object.

(b) If the obligee does not file a timely written objection, the overpayment amount determined by the department is final and the provisions of subsection (4) of this section apply. If the department does not resolve an objection to an obligee's satisfaction, a hearings officer of the department shall hear the objection. An order by the hearings officer is final. An obligee may appeal the decision of a hearings officer to the circuit court for a hearing de novo.

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

(4) The amount of the overpayment specified in subsection (3)(a) of this section is a liquidated debt and a delinquent amount owed to the state. The department may recover the debt by obtaining from the obligee a voluntary assignment of a portion of future support payments to be applied to the debt or in any other way permitted by law.

(5)(a) In addition to the debt created under subsection (2) of this section, a debt in favor of the state is created when:

(A) The department receives a check for support amounts due from an obligor or withholder subject to an order to withhold under this chapter;

(B) The department transmits the amount to the obligee, a child support agency of another state or an agency of this state; and

(C) The check is dishonored.

(b) When a debt is created under paragraph (a) of this subsection, the obligor or withholder who presented the check owes the amount of money specified on the check to the state.

(c) The department shall:

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

(B) Notify the obligor or withholder who presented the check that the obligor or withholder owes the money to the state; and

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

(d) The amount of the debt specified in paragraph (c) of this subsection is a liquidated debt and a delinquent amount owed to the state. The department may recover the debt in any way permitted under law.

(6)(a) When a motion has been filed to terminate, vacate or set aside a support order or to modify a support order to zero, the department may suspend enforcement of the support order if:

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

(B) The order is being terminated or modified to zero because the obligor has physical custody of the child.

(b) When enforcement is to be suspended under this subsection, the obligee shall be notified and may object on the basis that the child is not in the physical custody of the obligor or that the obligee has not consented to the child being in the physical custody of the obligor. When the obligee files an objection under this paragraph, the department may not suspend enforcement.

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

(7) The department shall adopt rules to carry out the provisions of this section. [1997 c.385 §2; 2001 c.961 §2]

25.130 Election of alternative support payment method; termination of election. (1) The parties may elect to make support payments as provided in ORS 25.030 unless the provisions of ORS 25.020 (1) apply. The election terminates when the provisions of ORS 25.020 (1) apply subsequent to the election.

(2) The election shall be in writing and filed with the court that entered the support order. The election must be signed by both the obligor and the obligee and must specify the amount of the support payment, the date payment is due, the court order number and the account number of the checking or savings account that is to be used.

(3) Notice of termination of the bank option and payment requirements pursuant to ORS 25.020 or 25.030 shall be sent by the Department of Justice to the obligor's and to the obligee's last-known address. [Formerly 23.807; 1993 c.596 §3; 1995 c.608 §8; 1997 c.704 §19; 1999 c.80 §80]

25.140 Copies of new or modified support orders to department. Counties that have heretofore transferred the collection, accounting and disbursement responsibilities to the Department of Justice, or that have elected not to maintain support collections, accounting and disbursement services, and clerks of courts not maintaining support collection services, shall forward to the department copies of all new and modified support orders, satisfactions or other pertinent documents in a timely manner. [Formerly 23.808; 1997 c.704 §20]

25.150 Department to collect fees for services. The Department of Justice shall assess and collect any fees for enforcement services and collection, accounting and disbursement services required by federal law or regulation, or state law or administrative rule. [Formerly 23.815; 1997 c.704 §21; 1999 c.80 §81]

25.160 Referral of support cases by district attorney to department; duration of collection services. (1) For the purposes of ORS 25.020, 25.030, 25.070, 25.080, 25.085 and 25.130 to 25.160, all support cases shall be referred by the district attorney to the Department of Justice for provision of collection, accounting and disbursement services when a written application for enforcement is made to the district attorney or the Division of Child Support and the case qualifies for support enforcement services under federal regulations and state law.

(2) The Department of Justice shall continue collection, accounting and disbursement services for any case referred under subsection (1) of this section until notified by the district attorney or the Division of Child Support that enforcement action has been discontinued. [Formerly 23.825; 1997 c.704 §22; 1999 c.80 §82]

25.164 Payment of support through Department of Justice. (1) If the payment method for support payments set forth in the governing support order does not require payments to be made through the Department of Justice, the obligor, obligee, district attorney or Division of Child Support of the Department of Justice may request to have subsequent payments made through the department. All of the following apply to the request:

- (a) The request must be in writing;
- (b) The request must include the last-known addresses of the obligor and the obligee; and
- (c) The request must be filed with the department.

(2) When a request is made under this section, all of the following apply:

- (a) The existing method of support accounting shall terminate effective the first day of the month following the month the request was filed;
- (b) The department shall commence support accounting and distribution when the existing method is terminated; and
- (c) The request constitutes an application for support enforcement services and for the use of state and federal laws, regulations and rules relating to support payments and enforcement of orders.

(3) If there is no appropriate record of support payments for purposes of this section, the department may establish a record of arrearage under ORS 25.167. [Formerly 25.320]

Note: 25.164 was added to and made a part of ORS chapter 25 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

25.167 Procedure for determining arrearages. This section establishes procedures for determining the amount of arrearage and for making a record of arrearage of support payments. All of the following apply to this section:

- (1) A record of support payment arrearage may be established by:
 - (a) Court order;

(b) Stipulation of the parties; or
(c) The procedures under subsection (2) of this section whenever an existing child or spousal support case enters the Department of Justice records system without a current payment record maintained by any court clerk.
(2) When allowed under subsection (1) of this section, arrearage amounts may be established under this subsection. All of the following apply to this subsection:

(a) The obligee or obligor may execute a certificate in a form acceptable to the Department of Justice that states the total amount owed or the payment history in as much detail as is necessary to demonstrate the periods and amounts of any arrearage.

(b) The person making the certificate shall file the original certificate with the court in which the decree was entered.

(c) The person making the certificate shall serve a true copy of the certificate upon the other party together with a notice that the certificate will be the basis of a permanent record unless the other party files objections.

(d) For objections to be valid under paragraph (c) of this subsection, the other party must file the objection with the court within 14 days from the date of service of the certificate and must mail or serve true copies of the objections on both the party who filed the certificate and either:

(A) The district attorney; or

(B) If support rights are or have been assigned to the State of Oregon at any time within the last five months or if arrears under the support order are so assigned, the Division of Child Support of the Department of Justice.

(e) If objections are filed within the time allowed, the party filing the certificate must file a supplemental certificate that is in a form acceptable to the department and that provides any information concerning the payment history that the department determines necessary.

(f) If objections are filed within the time allowed, the district attorney or the Division of Child Support shall cause the case to be set for a court hearing. At the hearing, the court shall consider the correctness of the certificate but shall not consider objections to the merits of the support order or decree. The parties may settle the case by written agreement anytime before the court hearing. Notice of the court hearing shall be served upon the party filing the objections as authorized in ORCP 9 B.

(g) If no objections are filed under this subsection within the time allowed, the amount of arrearage stated in the certificate is the amount owed for purposes of any subsequent action. The district attorney or the Division of Child Support shall file with the court a certificate stating the arrearage established under this paragraph.

(3) When a request for accounting and distribution services is made under ORS 25.164, no agency or court shall take or allow any ex parte enforcement action on amounts owed as arrearage from before the time that the Department of Justice commences support accounting and distribution until the amount is established under this section. This subsection does not prohibit or limit any enforcement action on support payments that become due subsequent to the department's commencement of support accounting and distribution under ORS 25.164.

(4) In any determination under this section, a canceled check, payable to the obligee, indorsed by the obligee or deposited to an account of the obligee, drawn on the account of the obligor and marked as child support shall be prima facie evidence that child support was paid to the obligee in the amount shown on the face of the check. It is immaterial that the check was signed by a person other than the obligor, provided that the person who signed the check was an authorized signatory of checks drawn on the account. [Formerly 25.330]

Note: 25.167 was added to and made a part of ORS chapter 25 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

25.170 Proceedings to require delinquent obligor to appear for examination of financial circumstances. When a support obligation is more than one month in arrears, the Attorney General or a district attorney may upon motion obtain an order requiring the obligor to appear for the purpose of examination regarding the obligor's financial circumstances. The court shall require the obligor to appear at a time and date certain at such place as may be appropriate. The order to appear shall inform the obligor that the obligor's answers may be used in subsequent enforcement and possible criminal proceedings, and that the obligor has a right to be represented by an attorney at the examination. The order shall be served upon the obligor in the same manner as service of summons. The order to appear shall also be served upon the obligee by regular mail. The obligee shall have the right to attend any such examination. [Formerly 23.835; 1989 c.599 §1; 1993 c.596 §4]

25.180 Examination of obligor's financial circumstances. (1) The examination shall be conducted under oath by

an employee of the Department of Justice or district attorney. The employee shall inform the obligor that the obligor's answers may be used in subsequent enforcement and possible criminal proceedings, and that the obligor has a right to be represented by an attorney at the examination. A record of the examination may be made by either stenographic or electronic means. The obligor may be examined in regard to the obligor's income and property, and to any matter relevant to the obligor's ability to pay support.

(2) An obligee or the obligee's attorney may examine the obligor in a proceeding conducted under this section. [Formerly 23.837; 1989 c.599 §2; 1993 c.596 §5]

25.190 Continuance of proceedings; certification of matter to court; service of notice to obligor and obligee.

(1) The examination may be continued for further review of the obligor's financial circumstances and employment, or the matter may be certified to the court for a contempt hearing on the issue of failure to pay support as ordered. If the examination is to be continued for further review or is to be certified to the court for a contempt hearing, the obligor shall be served at the examination with a notice stating the time, date and place for further examination or hearing before the court. Service may be made by an employee of the Department of Justice or district attorney.

(2) Any notice served upon the obligor regarding a continuation of the examination or regarding the certification of the matter to the court for a contempt hearing must also be served upon the obligee. Such service upon the obligee may be by regular mail. [Formerly 23.842; 1989 c.599 §3; 1993 c.596 §6]

25.200 Arrest of obligor for failure to appear. (1) If the obligor fails to appear for examination or further examination, the Attorney General or a district attorney may apply to the court which issued the order to appear for an order directing the issuance of a warrant for the arrest of the obligor. The motion shall be accompanied by an affidavit which shall state the relevant facts and whether the obligor contacted the Department of Justice or district attorney, as appropriate. If the court finds that the obligor had notice and failed to appear, the court shall order the issuance of a warrant for the arrest of the obligor in order to bring the obligor before the court to show cause why the obligor should not be held in contempt for a failure to appear as ordered.

(2) If the matter has been certified to the court for a contempt hearing and the obligor, having been properly served, fails to appear, the court shall order the issuance of a warrant for the arrest of the obligor. Upon arrest, the obligor shall be brought before the court to show cause why the obligor should not be held in contempt for a failure to appear as ordered. [Formerly 23.845; 1989 c.599 §4]

25.210 Use of obligor's property for delinquent support payments. If by examination of the obligor it appears that the obligor has any property liable to execution, the court, upon motion of the Attorney General or a district attorney, shall order that the obligor apply the same in satisfaction of the arrears or that the property be levied on by execution, or both. [Formerly 23.847; 1989 c.599 §5]

25.213 Assignment of proceeds of insurance policy to secure support obligation. If by examination of the obligor under ORS 25.170, it appears that the obligor is the beneficiary and owner of an insurance policy on the life of the child, the court, upon motion of the Attorney General or a district attorney, may order that the obligor assign to the obligee the rights to as much of the proceeds of the insurance policy as necessary to secure the obligation to make support payments, if assignment is permitted in the policy. This assignment shall be in addition to any other security ordered by the court. [1997 c.54 §2]

25.220 Computer printouts of administrator; evidence of authenticity not required in support proceedings; evidentiary effect. (1) In any proceeding to establish, enforce or modify a support obligation, extrinsic evidence of authenticity is not required as a condition precedent to the admission of a computer printout of the administrator that may reflect the employment records of a parent, the support payment record of an obligor, the payment of public assistance, the amounts paid, the period during which public assistance was paid, the persons receiving or having received assistance and any other pertinent information, if the printout bears a seal purporting to be that of the administrator and is certified as a true copy by original or facsimile signature of a person purporting to be an officer or employee of the administrator. Printouts certified in accordance with this section constitute prima facie evidence of the existence of the facts stated therein.

(2) To the extent permitted under federal and state law, obligors and obligees, and their attorneys, may obtain copies of such printouts upon request made to the administrator. [Formerly 23.855; 1989 c.519 §1; 1997 c.704 §23; 1999 c.735 §19]

25.230 Court authorized to require security for support payments. Whenever a court has entered an order for the payment of support, the court may provide for such security, bond or other guarantee satisfactory to the court to secure the obligation to make support payments. [Formerly 23.865]

25.240 Order to pay support by parent with legal custody of minor. Notwithstanding any other law, where a court or the administrator has the authority under ORS chapter 107, 108, 109, 110 or 416 or ORS 419B.400 to 419B.406 or 419C.590, 419C.592 and 419C.597 to require a parent without legal custody to pay support for a minor child, then the court or administrator may require a parent with legal custody to pay support for such a child as long as that parent does not have physical custody of such child or is not providing the child with the necessities of life, including but not limited to lodging, food and clothing. [1985 c.610 §11; 1993 c.33 §368; 1995 c.608 §28; 2001 c.455 §5]

25.243 Grievance procedure; rules. In addition to any other hearing rights authorized by law, an applicant for services provided under ORS 25.080 and any party to a child support order for which services are provided under ORS 25.080 may file a grievance with the Department of Human Services concerning any service provided under ORS 25.080. The department shall adopt rules establishing a process for handling grievances under this section. The process must provide that grievances not involving a public child support agency in another state be addressed no later than 90 days after the grievance is submitted to the department. [1995 c.608 §45]

25.245 Rebuttable presumption of inability to pay child support when parent receiving certain assistance payments; rules. (1) Notwithstanding any other provision of Oregon law, a parent who is eligible for and receiving cash payments under Title IV-A of the Social Security Act, the general assistance program as provided in ORS chapter 411 or a general assistance program of another state or tribe, the Oregon Supplemental Income Program or the federal Supplemental Security Income Program shall be rebuttably presumed unable to pay child support and a child support obligation does not accrue unless the presumption is rebutted.

(2) Each month, the Department of Human Services shall identify those persons receiving cash payments under the programs listed in subsection (1) of this section that are administered by the State of Oregon and provide that information to the administrator. If benefits are received from programs listed in subsection (1) of this section that are administered by other states, tribes or federal agencies, the obligor shall provide the administrator with written documentation of the benefits. The Department of Human Services shall adopt rules to implement this subsection.

(3) The administrator shall refer to the information provided in subsection (2) of this section prior to establishing any child support obligation. Within 30 days following identification of persons under subsection (2) of this section, the entity responsible for support enforcement services under ORS 25.080 shall provide notice of the presumption to the obligee and obligor and shall inform all parties to the support order that, unless a party objects as provided in subsection (4) of this section, child support shall cease accruing beginning with the support payment due on or after the date the obligor first begins receiving the cash payments and continuing through the support payment due in the last month in which the obligor received the cash payments. The entity responsible for support enforcement services shall serve the notice on the obligee in the manner provided for the service of summons in a civil action or by certified mail, return receipt requested, and shall serve the notice on the obligor by first class mail to the obligor's last-known address. The notice shall specify the month in which cash payments are first made and shall contain a statement that the administrator represents the state and that low cost legal counsel may be available.

(4) A party may object to the presumption by sending an objection to the entity responsible for support enforcement services under ORS 25.080 within 20 days after the date of service of the notice. The objection must describe the resources of the obligor or other evidence that might rebut the presumption of inability to pay child support. The entity receiving the objection shall cause the case to be set for a hearing before a court or a hearing officer. The court or hearing officer may consider only whether the presumption has been rebutted.

(5) If no objection is made, or if the court or hearing officer finds that the presumption has not been rebutted, the Department of Justice shall discontinue billing the obligor for the period of time described in subsection (3) of this section and no arrearage shall accrue for the period during which the obligor is not billed. In addition, the entity providing support enforcement services shall file with the circuit court in which the support order or decree has been entered or docketed a copy of the notice described in subsection (3) of this section or, if an objection is made and the presumption is not rebutted, a copy of the hearing officer's order.

(6)(a) Within 30 days after the date the obligor ceases receiving cash payments under a program listed in

subsection (1) of this section, the Department of Justice shall provide notice to all parties to the support order:

(A) Specifying the last month in which a cash payment was made;

(B) Stating that the payment of those benefits has terminated and that by operation of law billing and accrual of support resumes; and

(C) Informing the parties of their rights to request a review and modification of the support order based on a substantial change in circumstance or pursuant to ORS 25.287 or any other provision of law.

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

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

(7) Receipt by a child support obligor of cash payments under any of the programs listed in subsection (1) of this section shall be sufficient cause for a court or hearing officer to allow a credit and satisfaction against child support arrearage for months that the obligor received the cash payments.

(8) The notice and finding of financial responsibility required by ORS 416.415 shall include notice of the presumption, nonaccrual and arrearage credit rights provided for in this section.

(9) The presumption, nonaccrual and arrearage credit rights created by this section shall apply whether or not child support enforcement services are being provided under Title IV-D of the Social Security Act.

(10) Application of the presumption, nonaccrual and arrearage credit rights created by this section does not constitute a modification but does not limit the right of any party to seek a modification of a support order based upon a change of circumstances or pursuant to ORS 25.287 or any other provision of law. In determining whether a change in circumstances has occurred or whether two years have elapsed since entry of a support order, the court or hearing officer may not consider any action taken under this section as entry of a support order. The presumption stated in subsection (1) of this section applies in any modification proceeding. [1991 c.520 §3; 1993 c.799 §1; 1997 c.704 §24; 2001 c.104 §5; 2001 c.455 §6]

25.250 [1987 c.427 §1; repealed by 1993 c.798 §21]

25.255 Obligor to provide health insurance; reduction of support for such coverage; notice to insurance provider; duties of insurance provider. (1) All child support orders entered pursuant to ORS chapters 107, 108, 109 and 110 and ORS 416.400 to 416.470 and 419B.400 or 419C.590, and any modifications of those orders, shall provide, at the election of the obligee, assignee of the rights to medical support under the Medicaid program or the assignee of current support rights, that the obligor shall name the subject child as beneficiary on any health insurance plan that is available, under the terms of an applicable contract, to the obligor at reasonable cost. Health insurance is considered reasonable in cost if it is employment related insurance or other group health insurance, regardless of service delivery mechanism, and is available on a group basis or through an employer or union at a monthly cost, with respect to the coverage of the subject child, not to exceed the amount of the monthly child support obligation determined under the formula provided by ORS 25.275 and 25.280. In consideration of the out-of-pocket costs to the obligor attributable to naming a child on a health insurance plan, the Administrator of the Division of Child Support, an administrative hearings officer or a court shall reduce the obligor's child support obligation by the amount that represents the obligee's pro rata share, based upon the obligee's proportionate share of the combined income of the parents, of the obligor's out-of-pocket costs of health insurance of the child. When an obligor does not provide health insurance for a child, and the obligee elects to provide insurance and incurs out-of-pocket costs to provide health insurance, the Administrator of the Division of Child Support, an administrative hearings officer or a court shall increase the obligor's child support obligation by an amount that represents the obligor's pro rata share of the obligee's out-of-pocket costs of the health insurance attributable to enrolling the child. Nothing in this section limits the cost of the insurance which may be provided by the obligee when the obligor does not provide insurance for the child or children. However, nothing in this section shall authorize an increase in the amount of child support to be paid by the obligor in consideration of the obligee's out-of-pocket costs in an amount more than would be the obligor's pro rata share if the cost of the insurance were reasonable in cost as defined by this section. As used in this section, "health insurance" includes coverage under fee for service, health maintenance organizations, preferred provider organizations and other types of coverage under which medical services could be provided to the dependent child of an absent parent. For purposes of this section, the term "insurer" includes a group health plan, as defined in section 607 (1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167), a health maintenance organization or an entity offering a service benefit plan.

(2) If health insurance is not available to an obligor at the time a child support order is entered, the order shall include a provision requiring the obligor to provide health insurance in the future when health insurance becomes available to the obligor.

(3) In addition to the health insurance coverage required in subsections (1) and (2) of this section, the order shall also require the obligor to provide dependent health insurance for the benefit of the obligee if it is available at no additional cost to the obligor and in this case the provisions of this section apply. The remedy provided by this subsection is in addition to and not exclusive of any other remedy provided by law.

(4) Where the obligor is eligible for family coverage, and upon application of the obligor, the employer, union or plan administrator shall enroll the child as a beneficiary in the health insurance plan and withhold any required premium from the obligor's income or wages. If the obligor is enrolled, but fails to make application to obtain coverage for the child, and subject to the provisions of subsection (5) or (6) of this section, the employer, union or plan administrator shall enroll the child under family coverage upon application of the child's other parent, or the department or the entity responsible for enforcement under ORS 25.080. The employer shall withhold from the employee's compensation the employee's share of premiums for health coverage as necessary and pay this amount to the insurer.

(5) The obligee or entity responsible for support enforcement under ORS 25.080 may serve a notice of order to provide for insurance coverage in a form substantially similar to that prescribed by the Department of Human Services on the obligor's employer or union or the employer's or union's registered agent, bookkeeper, accountant, person responsible for payroll or local office manager. If a medical child support order is required under section 609 of the Employee Retirement Income Security Act of 1974, the order shall be provided to the plan administrator. The notice of order to provide health insurance or a medical child support order may be served by regular mail or any means that is calculated to give actual notice. The notice of order or medical child support order may be issued ex parte either administratively or judicially and without advance notice to enforce the health insurance provisions of an order. The notice of order or a medical child support order may be issued when the following conditions are met:

(a) An administrative or judicial order, judgment or decree requires the obligor to provide health insurance for the subject child; and

(b) The obligor is enrolled in but fails to provide written proof to the obligee or the entity responsible for support enforcement that the child has been enrolled or application to enroll the child has been made.

(6) Notwithstanding the provisions of subsections (4) and (5) of this section, when an obligor provides coverage and changes employment, the obligee, the Department of Human Services or the entity responsible for enforcement under ORS 25.080 shall transfer notice of order to the new employer. Unless the obligor contests the notice of order by requesting a modification of the underlying order, the notice of order operates to enroll the child in the obligor's health plan if the employer provides health care coverage. If a medical child support order is required under section 609 of the Employee Retirement Income Security Act of 1974, the enforcing entity shall issue a medical child support order.

(7) The signature of the custodial parent or guardian of the insured dependent is a valid authorization to the insurer for purposes of processing an insurance reimbursement payment to the provider of the health services.

(8) When an order for dependent insurance coverage is in effect or is being sought, the obligor's employer or union shall release to the obligee or the entity responsible for support enforcement, upon request, the name and address of the insurer and any plan administrator.

(9) When an order for dependent insurance coverage is in effect or is being sought, the insurer shall release to the obligee, or to the entity responsible for support enforcement, upon request, information about the dependent coverage.

(10) The obligor who fails to maintain the health insurance for the benefit of the child as ordered shall be liable for any health expenses incurred from the date of the order.

(11) The remedies in this section are not exclusive. Nothing in this section precludes action by the court to enforce a judicial or docketed administrative order requiring health insurance for a child or children by imposition of remedial or punitive sanctions for contempt or otherwise. [1989 c.812 §2; 1991 c.67 §4; 1991 c.519 §2; 1993 c.33 §286; 1993 c.800 §1; 1995 c.506 §§12,12a; 1999 c.80 §10]

25.260 Confidentiality of records. (1) For the protection of applicants for and recipients of support enforcement services and the protection of any other person who may be a party to a proceeding to establish, modify or enforce a support obligation or an obligation to provide medical insurance coverage, the Division of Child Support, the district attorney and the Department of Human Services, unless otherwise authorized by law, shall not disclose or use the contents of any records, files, papers or communications for purposes other than those directly connected with:

(a) The administration of the plan or program approved under Part A, B, D, E or F of Title IV or under Title I, X,

XIV, XVI, XIX or XX of the Social Security Act or the Supplemental Security Income Program established under Title XVI of the Social Security Act;

(b) Any investigation, prosecution or criminal or civil proceeding conducted in connection with the administration of the plan or program referred to in paragraph (a) of this subsection;

(c) The administration of any other federal or federally assisted program that provides assistance, in cash or in kind, directly to individuals on the basis of need; and

(d) Reporting to an appropriate agency or official, information on known or suspected instances of physical or mental injury, sexual abuse or exploitation or negligent treatment or maltreatment of a child who is the subject of child support enforcement activity, if the known or suspected instances are related to the child support enforcement activity.

(2) In addition to any penalty to which an individual may be subject under ORS 25.990, an employee of the Department of Justice, of a district attorney or of the Department of Human Services who discloses or uses the contents of any records, files, papers or communications in violation of subsection (1) of this section is subject to discipline, up to and including dismissal from employment. [1989 c.812 §3(1); 1991 c.758 §2; 1995 c.609 §7; 1999 c.80 §72]

25.265 Rules regarding access to information in Federal Parent Locator Service. The Department of Human Services shall adopt rules establishing a procedure by which a person authorized under federal law may access information in the Federal Parent Locator Service. [1997 c.746 §22a]

Note: 25.265 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 25 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

FORMULA FOR DETERMINING AMOUNT OF CHILD SUPPORT

25.270 Legislative findings for ORS 25.270 to 25.287. The Legislative Assembly finds that:

(1) The federal Family Support Act of 1988 mandates that the state must establish a formula for child support award amounts that is applicable in any judicial or administrative proceeding for the award of child support.

(2) It is further mandated that the amount of child support determined by the formula must be presumed to be the correct amount unless rebutted by a specific finding on the record that the application of the formula would be unjust or inappropriate in the particular case as determined under criteria established by the state.

(3) It is also mandated that the formula is to be reviewed at least once every four years to insure that the application of the formula results in appropriate child support awards.

(4) There is a need for uniformity in child support awards, and child support awards often are based upon noneconomic factors and are inadequate in terms of the needs of the child.

(5) The Division of Child Support of the Department of Justice is the appropriate agency to establish the required formula. [1989 c.811 §2]

25.275 Formula for determining child support awards; criteria to be considered; mandated standards; reduction; rules. (1) The Division of Child Support of the Department of Justice shall establish by rule a formula for determining child support awards in any judicial or administrative proceeding. In establishing the formula, the division shall take into consideration the following criteria:

(a) All earnings, income and resources of each parent, including real and personal property;

(b) The earnings history and potential of each parent;

(c) The reasonable necessities of each parent;

(d) The ability of each parent to borrow;

(e) The educational, physical and emotional needs of the child for whom the support is sought;

(f) The amount of assistance which would be paid to the child under the full standard of need of the state's IV-A plan;

(g) Preexisting support orders and current dependents;

(h) Any Social Security or Veterans' benefits paid to the child, or to a representative payee administering the funds for the child's use and benefit, as a result of a parent's disability or retirement; and

(i) Other reasonable criteria which the division may find to be appropriate.

(2) The formula described in subsection (1) of this section must also comply with the following standards:

(a) The child is entitled to benefit from the income of both parents to the same extent that the child would have

benefited had the family unit remained intact or if there had been an intact family unit consisting of both parents and the child.

(b) Both parents should share in the costs of supporting the child in the same proportion as each parent's income bears to the combined income of both parents.

(3) The formula described in subsection (1) of this section must be designed to insure, as a minimum, that the child for whom support is sought benefits from the income and resources of the absent parent on an equitable basis in comparison with any other minor children of the absent parent.

(4) The Administrator of the Division of Child Support, an administrative hearings officer or a court shall reduce or increase the child support obligation to be paid by the obligor and determined under the formula described in subsection (1) of this section in consideration of the costs of health insurance incurred by the obligor or obligee, as provided in ORS 25.255. [1989 c.811 §3; 1993 c.800 §2; 1999 c.1030 §1]

25.280 Formula amount presumed correct; rebuttal of presumption; criteria. In any judicial or administrative proceeding for the establishment or modification of a child support obligation under ORS chapters 107, 108, 109 and 416, and ORS chapter 110 or ORS 419B.400, 419B.923, 419C.590 or 419C.610, the amount of support determined by the formula established pursuant to ORS 25.270 to 25.287, 107.105, 416.415, 416.435 and 419B.400 or 419C.590 shall be presumed to be the correct amount of the obligation. This shall be a rebuttable presumption and a written finding or a specific finding on the record that the application of the formula would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption. The following criteria shall be considered in making the finding:

- (1) Evidence of the other available resources of a parent;
- (2) The reasonable necessities of a parent;
- (3) The net income of a parent remaining after withholdings required by law or as a condition of employment;
- (4) A parent's ability to borrow;
- (5) The number and needs of other dependents of a parent;
- (6) The special hardships of a parent including, but not limited to, any medical circumstances of a parent affecting the parent's ability to pay child support;
- (7) The needs of the child;
- (8) The desirability of the custodial parent remaining in the home as a full-time parent and homemaker;
- (9) The tax consequences, if any, to both parents resulting from spousal support awarded and determination of which parent will name the child as a dependent; and
- (10) The financial advantage afforded a parent's household by the income of a spouse or another person with whom the parent lives in a relationship similar to husband and wife. [1989 c.811 §4; 1993 c.33 §287; 1993 c.354 §1; 1995 c.608 §30; 2001 c.622 §42]

25.285 [1989 c.811 §5; repealed by 1991 c.519 §8 (25.287 enacted in lieu of 25.285 in 1993)]

25.287 Proceedings to modify orders to comply with formula; when proceeding may be initiated; issues considered. (1)(a) The entity providing support enforcement services under ORS 25.080 may initiate proceedings to modify a support obligation to ensure that the support obligation is in accordance with the formula established under ORS 25.270 to 25.287.

(b) Proceedings under this subsection may occur only after two years have elapsed from the later of the following:

- (A) The date the original support obligation took effect;
- (B) The date any previous modification of the support obligation took effect; or
- (C) The date of any previous review and determination under this subsection that resulted in no modification of the support obligation.

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

(d) The only issues at proceedings under this subsection are whether two years have elapsed, as described in paragraph (b) of this subsection, and whether the support obligation is in substantial compliance with the formula established under ORS 25.270 to 25.287.

(e) Upon review, if the administrator determines that a support obligation does not qualify for modification under this section, a party may appeal the determination. A hearing on the appeal shall be conducted by a hearing officer assigned from the Hearing Officer Panel established under section 3, chapter 849, Oregon Laws 1999. Appeal of the order of the hearing officer may be taken to the circuit court of the county in which the support obligation has been

entered, docketed or registered for a hearing de novo. The appeal to the court shall be by petition for review filed within 60 days after the order of the hearing officer has been docketed.

(f) If the court, the administrator or the hearing officer finds that more than two years have elapsed, as described in paragraph (b) of this subsection, the court, the administrator or the hearing officer shall modify the support order to bring the support obligation into substantial compliance with the formula established under ORS 25.270 to 25.287, regardless of whether there has been a substantial change in circumstances since the support obligation was last established, modified or reviewed. Proceedings by the administrator or hearing officer under this subsection shall be conducted according to the provisions of ORS 416.425 and 416.427.

(g) The provisions of this subsection apply to any support obligation established by a support order under ORS chapter 24, 107, 108, 109, 110 or 416 or ORS 419B.400 or 419C.590.

(2) The administrator, court or hearing officer may use the provisions of subsection (1) of this section when a support order was entered in another state and registered in Oregon, the provisions of ORS chapter 110 apply and more than two years have elapsed as provided in subsection (1)(b) of this section.

(3) Notwithstanding the provisions of this section, proceedings may be initiated at any time to modify a support obligation based upon a substantial change of circumstances under any other provision of law.

(4) The obligee is a party to any action to modify a support obligation under this section. [1991 c.519 §3; 1993 c.33 §369; 1993 c.596 §7 (enacted in lieu of 25.285 in 1993); 1995 c.608 §31; 1999 c.80 §64; 1999 c.735 §1; 2001 c.455 §7]

Note: The amendments to 25.287 by section 8, chapter 455, Oregon Laws 2001, become operative January 1, 2004. See section 9, chapter 455, Oregon Laws 2001. The text that is operative on and after January 1, 2004, is set forth for the user's convenience.

25.287. (1)(a) The entity providing support enforcement services under ORS 25.080 may initiate proceedings to modify a support obligation to ensure that the support obligation is in accordance with the formula established under ORS 25.270 to 25.287.

(b) Proceedings under this subsection may occur only after two years have elapsed from the later of the following:

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

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

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

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

(d) The only issues at proceedings under this subsection are whether two years have elapsed, as described in paragraph (b) of this subsection, and whether the support obligation is in substantial compliance with the formula established under ORS 25.270 to 25.287.

(e) Upon review, if the administrator determines that a support obligation does not qualify for modification under this section, a party may appeal the determination. A hearing on the appeal shall be conducted by a hearing officer appointed by the Employment Department. Appeal of the order of the hearing officer may be taken to the circuit court of the county in which the support obligation has been entered, docketed or registered for a hearing de novo. The appeal to the court shall be by petition for review filed within 60 days after the order of the hearing officer has been docketed.

(f) If the court, the administrator or the hearing officer finds that more than two years have elapsed, as described in paragraph (b) of this subsection, the court, the administrator or the hearing officer shall modify the support order to bring the support obligation into substantial compliance with the formula established under ORS 25.270 to 25.287, regardless of whether there has been a substantial change in circumstances since the support obligation was last established, modified or reviewed. Proceedings by the administrator or hearing officer under this subsection shall be conducted according to the provisions of ORS 416.425 and 416.427.

(g) The provisions of this subsection apply to any support obligation established by a support order under ORS chapter 24, 107, 108, 109, 110 or 416 or ORS 419B.400 or 419C.590.

(2) The administrator, court or hearing officer may use the provisions of subsection (1) of this section when a support order was entered in another state and registered in Oregon, the provisions of ORS chapter 110 apply and more than two years have elapsed as provided in subsection (1)(b) of this section.

(3) Notwithstanding the provisions of this section, proceedings may be initiated at any time to modify a support obligation based upon a substantial change of circumstances under any other provision of law.

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

25.290 Determining disposable income of obligor; offsets; rules. (1) In determining the disposable income of an obligor, the obligor may claim offsets against gross receipts for ordinary and necessary business expenses and taxes directly related to the income withheld. The obligor has the burden of proof and must furnish documentation to support any offsets claimed.

(2) The Title IV-D director may adopt rules governing the determination of the income subject to withholding that remains after application of offsets. Withholding actions in a case that is not a Title IV-D case or the determination of the Title IV-D director's agent may be appealed to the circuit court. [1995 c.608 §1b]

25.310 [1985 c.671 §4; 1989 c.812 §4; 1991 c.362 §2; repealed by 1993 c.798 §21]

25.311 [1993 c.798 §5; 1995 c.608 §32; 1999 c.80 §2; 1999 c.735 §8; 1999 c.849 §38; renumbered 25.378 in 1999]

25.313 [1993 c.798 §3; renumbered 25.393 in 1999]

25.314 [1993 c.798 §6; 1995 c.272 §6; 1997 c.704 §26; 1999 c.80 §3; renumbered 25.402 in 1999]

25.315 [1993 c.798 §7; 1999 c.80 §4; renumbered 25.399 in 1999]

25.316 [1993 c.798 §8; 1999 c.80 §5; 1999 c.735 §12; renumbered 25.405 in 1999]

25.317 [1993 c.798 §9; 1999 c.735 §11; renumbered 25.396 in 1999]

25.318 [1993 c.798 §10; renumbered 25.390 in 1999]

25.320 [1985 c.671 §5; 1997 c.704 §27; renumbered 25.164 in 1999]

25.330 [1985 c.671 §6; 1991 c.588 §1; 1995 c.609 §5; 1997 c.704 §28; renumbered 25.167 in 1999]

25.340 [1985 c.671 §7; 1993 c.798 §35; renumbered 25.381 in 1999]

25.350 [Formerly 23.783; repealed by 1993 c.798 §21]

25.351 [1993 c.798 §12; 1995 c.272 §1; 1997 c.704 §29; 1999 c.80 §6; renumbered 25.414 in 1999]

25.353 [1993 c.798 §14; 1995 c.272 §7; 1997 c.704 §30; 1999 c.80 §7; renumbered 25.417 in 1999]

25.354 [1995 c.272 §4; 1999 c.735 §15; renumbered 25.387 in 1999]

25.355 [1993 c.798 §15; 1997 c.704 §31; 1999 c.80 §8; renumbered 25.411 in 1999]

25.357 [1993 c.798 §16; renumbered 25.421 in 1999]

25.359 [1993 c.798 §17; renumbered 25.408 in 1999]

25.360 [Formerly 23.778; repealed by 1993 c.798 §21]

25.361 [1993 c.798 §18; repealed by 1999 c.735 §23]

25.363 [1993 c.798 §19; 1999 c.80 §9; renumbered 25.424 in 1999]

25.365 [1993 c.798 §20; renumbered 25.427 in 1999]

25.367 [1993 c.798 §2; 1995 c.608 §33; 1999 c.130 §3; renumbered 25.372 in 1999]

25.370 [1985 c.671 §8; 1989 c.812 §5; 1993 c.798 §26; 1997 c.704 §32; renumbered 25.384 in 1999]

INCOME WITHHOLDING AND PAYMENT RECORDS

25.372 Applicability. ORS 25.372 to 25.427 and the amendments to ORS 23.170, 23.175, 23.185 (1999 Edition), 25.010, 25.070, 25.381, 25.384, 29.145 (1999 Edition), 29.147 (1999 Edition), 29.411 (1999 Edition), 29.415 (1999 Edition), 109.015, 238.445, 409.021, 419B.408, 419C.600, 656.234, 657.780, 659.010 (1999 Edition) and 659.121 (1999 Edition) by sections 4 and 22 to 49, chapter 798, Oregon Laws 1993, apply to current support, arrears and interest on arrears, independently or combined, whether arrears are owed to an obligee, the state or a foreign jurisdiction. [Formerly 25.367; 2001 c.249 §73]

25.375 Priority of withholding. Withholding under ORS 25.378 has priority over any other legal process under Oregon law against the same income. [Formerly 25.722]

25.378 Payment of support by income withholding; initiation of income withholding. (1) Except as otherwise provided in ORS 25.396, when a support order is entered or modified by the Division of Child Support, a district attorney, a hearing officer or a circuit court, including a juvenile court, the order shall include a provision requiring the obligor to pay support by income withholding regardless of whether support enforcement services are being provided under ORS 25.080. In addition to the income withholding provided for in this subsection, income withholding may be initiated in accordance with subsections (2) to (6) of this section.

(2) When an obligor is subject to a support order issued or registered in this state and fails to make payments at least equal to the amount of support payable for one month, a court, the Division of Child Support, a district attorney or the Department of Human Services, whichever is appropriate, shall initiate income withholding without the need for a judicial or administrative hearing and without the need for advance notice to the obligor of the withholding.

(3) When an arrearage exists and notice of the delinquent amount has been given to the obligor, a court, upon application, shall issue a withholding order upon the ex parte request of a person holding support rights, the Division of Child Support or the district attorney.

(4) If an obligor is not otherwise subject to income withholding:

(a) A court may issue an order to withhold upon the ex parte motion of the obligor; or

(b) The Division of Child Support, Department of Human Services or district attorney may issue an order to withhold upon the ex parte motion of the obligor.

(5)(a) Upon the request of the holder of support rights, a court, the Division of Child Support or a district attorney, as appropriate, may issue a withholding order at any time if:

(A) The obligor is not otherwise subject to withholding; and

(B) After notice and an opportunity to object has been given to the obligor, a finding is made that it would be in the best interests of the child to issue a withholding order.

(b) If the obligor has been granted an exception to withholding under ORS 25.396 by a court, the holder of support rights must apply for withholding under this subsection by motion to the court.

(6) A court or agency shall issue an order to withhold when a support order or an arrearage from another jurisdiction is entered in Oregon in accordance with interstate income withholding under ORS chapter 110. [Formerly 25.311; 2001 c.104 §6]

Note: The amendments to 25.378 (formerly 25.311) by section 39, chapter 849, Oregon Laws 1999, become operative January 1, 2004. See section 40, chapter 849, Oregon Laws 1999. The text that is operative on and after January 1, 2004, including amendments by section 7, chapter 104, Oregon Laws 2001, is set forth for the user's convenience.

25.378. (1) Except as otherwise provided in ORS 25.396, when a support order is entered or modified by the Division of Child Support, a district attorney, an Employment Department hearing officer or a circuit court, including a juvenile court, the order shall include a provision requiring the obligor to pay support by income withholding regardless of whether support enforcement services are being provided under ORS 25.080. In addition to the income withholding provided for in this subsection, income withholding may be initiated in accordance with subsections (2) to

(6) of this section.

(2) When an obligor is subject to a support order issued or registered in this state and fails to make payments at least equal to the amount of support payable for one month, a court, the Division of Child Support, a district attorney or the Department of Human Services, whichever is appropriate, shall initiate income withholding without the need for a judicial or administrative hearing and without the need for advance notice to the obligor of the withholding.

(3) When an arrearage exists and notice of the delinquent amount has been given to the obligor, a court, upon application, shall issue a withholding order upon the ex parte request of a person holding support rights, the Division of Child Support or the district attorney.

(4) If an obligor is not otherwise subject to income withholding:

(a) A court may issue an order to withhold upon the ex parte motion of the obligor; or

(b) The Division of Child Support, Department of Human Services or district attorney may issue an order to withhold upon the ex parte motion of the obligor.

(5)(a) Upon the request of the holder of support rights, a court, the Division of Child Support or a district attorney, as appropriate, may issue a withholding order at any time if:

(A) The obligor is not otherwise subject to withholding; and

(B) After notice and an opportunity to object has been given to the obligor, a finding is made that it would be in the best interests of the child to issue a withholding order.

(b) If the obligor has been granted an exception to withholding under ORS 25.396 by a court, the holder of support rights must apply for withholding under this subsection by motion to the court.

(6) A court or agency shall issue an order to withhold when a support order or an arrearage from another jurisdiction is entered in Oregon in accordance with interstate income withholding under ORS chapter 110.

25.381 Establishing income withholding as method of paying support; records. Whenever support rights are not and have not at any time during the past five months been assigned to the Department of Human Services or to a public assistance agency of another state, and no arrearages under a support order are so assigned, the district attorney or, as appropriate, the Division of Child Support of the Department of Justice, shall provide, upon request of an obligor or obligee, services sufficient to permit establishment of income withholding under ORS 25.378, including such services as are necessary to establish a support payment record under ORS 25.164 and 25.167. These services shall be provided to the obligee without the necessity of an application for support enforcement services under Title IV-D of the Social Security Act (42 U.S.C. 651, et seq.). [Formerly 25.340; 2001 c.900 §8]

Note: 25.381 was made a part of ORS chapter 25 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

25.384 Statement on withholding in support order. (1) Any child support order issued or modified after October 1, 1989, shall include a statement in substantially the following form:

NOTICE OF INCOME WITHHOLDING

The support order is enforceable by income withholding under ORS 25.372 to 25.427. Withholding shall occur immediately, whenever there are arrears at least equal to the support payment for one month, whenever the obligated parent requests such withholding or whenever the obligee requests withholding for good cause. The district attorney or, as appropriate, the Division of Child Support of the Department of Justice will assist in securing such withholding. Exceptions may apply in some circumstances.

(2) The Department of Justice shall provide annual notice to each obligor and obligee on support orders being enforced by the district attorney or Division of Child Support of the availability of and requirements for exceptions to withholding. [Formerly 25.370]

Note: 25.384 was made a part of ORS chapter 25 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

25.387 Withholding more than amount authorized by law. Notwithstanding ORS 25.414 and 656.234, the court upon motion of a party holding the support rights, the Division of Child Support or the district attorney, and after a hearing, may order the withholding of more than the amount otherwise authorized by law. In no case may an order require payment of an amount that exceeds the limits imposed by the Consumer Credit Protection Act (15 U.S.C. 1673(b)). [Formerly 25.354]

Note: 25.387 was added to and made a part of ORS chapter 25 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

25.390 Amendment of support order not required for withholding. Disposable income is subject to an order to withhold to satisfy a support obligation without the need for any amendment to the support order involved or for any further action, other than those actions required or permitted under ORS 25.378. [Formerly 25.318]

25.393 Remedy additional to other remedies. Collection of support by withholding income pursuant to ORS chapter 25 is in addition to any other remedy provided by law for the enforcement of support. [Formerly 25.313]

25.396 Exception to withholding; termination of withholding; rules. (1) An obligor who is subject to an order to withhold issued under ORS 25.378 (1) may request that withholding be discontinued or not initiated if:

- (a) All arrearages are paid in full;
- (b) The obligor has complied with the terms of a previously allowed exemption from withholding; and
- (c)(A) The obligor and the obligee agree in writing to an alternative arrangement; or
(B) A court or the administrator makes a written finding and explanation that there is good cause not to require the withholding.

(2)(a) The state or the obligor may request that withholding be discontinued or not initiated if:

- (A) Child support is currently assigned to the Oregon Youth Authority or the Department of Human Services;
- (B) The order to withhold is a barrier to reunification of the family or rehabilitation of the youth or is prejudicial to the obligor's ability to provide for another child to whom a duty of support is owed; and
- (C) The state and the obligor enter into a written alternative payment agreement.

(b) The administrator shall adopt rules and establish procedures to implement this subsection.

(3)(a) The entity to whom the state or an obligor makes a request under subsection (1) or (2) of this section is:

- (A) The district attorney or the Division of Child Support, whichever is appropriate, when support services are being provided by the entity under ORS 25.080; or
- (B) In all other cases, the circuit court.

(b) When the obligor is making a request concerning withholding for spousal support, the obligor shall make the request to the district attorney or Division of Child Support only if the district attorney or Division of Child Support is enforcing the spousal support order under ORS 25.080 (4)(c) or (d). In all other cases, the obligor shall make the request to the circuit court.

(c) Appeal of a decision of the district attorney or the Division of Child Support is to the circuit court for a hearing under ORS 183.484.

(4) If money is owed to the state under the support order that is the subject of an agreement under subsection (1)(c)(A) of this section, the state must also be a party to the written agreement. The written agreement must be reviewed and entered in the record by the court or administrator.

(5) For purposes of subsection (1) of this section, good cause exists when there is proof of timely payment of previously ordered support in cases involving the modification of support orders and there are no arrearages.

(6) Withholding may be terminated only if the conditions set forth in this section are met. [Formerly 25.317; 2001 c.171 §1]

25.399 Notice of order to withhold; contents of notice. (1) When an order to withhold is issued under ORS 25.378, the party or entity initiating the action shall send notice of the order to withhold to the obligor and the obligee by regular mail to the last-known addresses of the obligor and obligee. The notice shall state:

- (a) That withholding has commenced;
- (b) The amount to be withheld and the amount of arrears, if any;
- (c) That the order to withhold applies to any current or subsequent withholder or period of employment;
- (d) The procedures available for contesting the withholding and that the only basis for contesting the withholding is

a mistake of fact, which means an error in the amount of current support or arrearages, or an error in the identity of the obligor;

(e) The availability of and requirements for exceptions to withholding;

(f) That the obligor has 14 days from the date that the income is first withheld pursuant to the order to withhold to contest the withholding; and

(g) The actions that will be taken if the obligor contests the withholding.

(2) The notice requirement of subsection (1) of this section may be met by mailing a copy of the order to withhold, by regular mail, to the obligor and to the obligee. [Formerly 25.315]

25.402 Service of order on withholder; contents. (1)(a) The party initiating the support action shall serve the order to withhold on the withholder. The order may be personally served upon the withholder or the withholder's registered agent, an officer of the corporation, bookkeeper, accountant, person responsible for payroll or local office manager or may be served by any type of mail which is calculated to give actual notice and is addressed to one of the persons listed above.

(b) Notwithstanding paragraph (a) of this subsection and unless the Department of Justice, prior to initiating service, receives written notice of completion of service by another party, the department shall serve the order to withhold in all cases affecting a support order for which the department or the district attorney has responsibility under ORS 25.080 for providing support enforcement services regardless of whether the department or another party initiated the support action.

(2) The order to withhold shall inform the withholder of all of the following:

(a) The amount of the obligor's continuing support obligation.

(b) That the withholder is required to withhold from the obligor's disposable income due or becoming due to the obligor at each pay period an amount as determined by ORS 25.414.

(c) The appropriate person to whom to make the withholding payment.

(d) The information contained in ORS 25.375, 25.387, 25.411, 25.414, 25.417, 25.421 and 25.424. [Formerly 25.314]

25.405 Contesting order to withhold; basis. (1) An obligor contesting an order to withhold issued under ORS 25.378 must do so within 14 days from the date income is first withheld pursuant to the order to withhold. The obligor may not contest an order to withhold issued under ORS 25.378 (5).

(2) The only basis for contesting the order to withhold is a mistake of fact. "Mistake of fact" means an error in the amount of current support or arrearages, or an error in the identity of the obligor. Payment of all arrearages shall not be the sole basis for not implementing withholding.

(3) If the order to withhold was issued by a court of this state, the obligor must contest the order to withhold in the court that issued the order.

(4) If the order to withhold was issued by a court or administrative agency of another state and was received directly by an employer in this state under ORS 110.394, the obligor may contest the order to withhold by:

(a) Seeking relief from enforcement of the order in the appropriate tribunal of the state that issued the order; or

(b) Registering the underlying withholding order in Oregon and seeking relief from enforcement of the order in an Oregon circuit court.

(5) If the order to withhold was issued pursuant to a request for enforcement under ORS 25.080, the obligor may contest the order to withhold to the district attorney or the Division of Child Support. The district attorney or the Division of Child Support need not provide an opportunity for a contested case administrative hearing under ORS 183.310 to 183.550 or a hearing in circuit court. Within 45 days after the date income is first withheld pursuant to the order to withhold, the district attorney or the Division of Child Support shall determine, based on an evaluation of the facts, if the withholding shall continue and notify the obligor of the determination and of the obligor's right to appeal the determination.

(6) Any appeal of the decision of the district attorney or the Division of Child Support made under subsection (5) of this section is to the circuit court for a hearing under ORS 183.484.

(7) The initiation of proceedings to contest an order to withhold under subsection (4) of this section, a motion or request to contest an order to withhold or an appeal of the decision of the district attorney or the Division of Child Support made under subsection (5) of this section does not act to stay withholding unless otherwise ordered by a court. [Formerly 25.316]

25.408 Withholding is continuing obligation. The withholding required by the order is a continuing obligation. The notice and the withholding required by the order remain in effect and are binding upon the withholder until further notice from the court or the entity issuing the notice. [Formerly 25.359]

25.410 [1985 c.671 §13a; 1993 c.798 §27; 1993 c.800 §3; repealed by 1995 c.608 §46]

25.411 When withholding begins; payment to Department of Justice or obligee. (1) The withholder shall start withholding not later than five days after the first payday following receipt of the order to withhold.

(2) Within seven business days after the date the obligor receives income, the withholder shall pay amounts withheld to the Department of Justice or to the obligee by deposit into the obligee's bank account, whichever is specified in the order to withhold. The withholder shall include, with the payment, the obligor's name and case number and the date upon which the income was withheld.

(3) When payments are made to the Department of Justice, the withholder may combine amounts withheld from different obligors' incomes in a single payment as long as such payment is accompanied by a list that separately identifies which portion of the payment is attributable to each obligor, the obligor's name and case number, if any.

(4) As used in this section, the term "business day" means a day on which the Department of Justice is open for regular business. [Formerly 25.355]

25.414 Standard amount to be withheld; processing fee; rules. (1) The withholder shall withhold from the obligor's disposable monthly income, other than workers' compensation under ORS chapter 656 or unemployment compensation under ORS chapter 657, the amount stated in the order to withhold. The entity issuing the order to withhold shall compute this amount subject to the following:

(a) If withholding is for current support only, the amount to be withheld is the amount specified as current support in the support order.

(b) If withholding is for current support and there is an arrearage, the amount to be withheld is 120 percent of the amount specified as current support in the support order.

(c) If withholding is only for arrearage, the amount to be withheld is one of the following:

(A) The amount of the last ordered monthly support.

(B) If there is no last ordered monthly support amount, the monthly support amount used to calculate the arrearage amount specified in the order or judgment for arrearage.

(C) If there is no last ordered monthly support amount and if there was no monthly support amount, an amount calculated under the formula established under ORS 25.275. For purposes of this subparagraph, this calculation shall be based on the obligor's current monthly gross income or, if the obligor's current monthly gross income is not known, the Oregon hourly minimum wage converted to a monthly amount based upon a 40-hour workweek, zero income for the obligee, and one joint child, regardless of how many children the parties may actually have. No rebuttals to this calculation may be allowed.

(d) Notwithstanding the amount determined to be withheld under paragraph (c) of this subsection, the obligor must retain disposable monthly income of at least 160 times the applicable federal minimum hourly wage prescribed by section 6 (a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) or any future minimum hourly wages prescribed in that section.

(2) The amount to be withheld from unemployment compensation under ORS chapter 657 is calculated as follows:

(a) If withholding is for a current support order, regardless of the existence of arrearage, the amount to be withheld is the lesser of:

(A) Twenty-five percent of the benefits paid; or

(B) The current monthly support obligation.

(b) If withholding is for arrearage only, the amount to be withheld is the lesser of:

(A) Fifteen percent of the benefits paid; or

(B) The amount of the last ordered monthly support.

(c) No processing fee shall be charged or collected when withholding from unemployment compensation.

(3) The amount to be withheld from workers' compensation under ORS chapter 656 is set forth in ORS 656.234.

(4) Notwithstanding any other provision of this section, when withholding is from a lump sum payment or benefit, including but not limited to retroactive workers' compensation benefits, lump sum retirement plan disbursements or withdrawals, insurance payments or settlements, severance pay, bonus payments or any other similar payments or benefits that are not periodic recurring income, the amount subject to withholding for payment of a support obligation

may not exceed one-fourth of the amount of the lump sum payment or benefit.

(5) Notwithstanding any other provision of this section, when withholding is only for arrearage assigned to this or another state, the Department of Justice may set a lesser amount to be withheld if the obligor demonstrates the withholding is prejudicial to the obligor's ability to provide for a child the obligor has a duty to support. The Department of Human Services shall adopt rules to implement this subsection.

(6) Except as provided in subsection (2) of this section, the withholder may deduct from the obligor's disposable income a monthly processing fee not to exceed \$5. The processing fee is in addition to the amount calculated to be withheld for support, unless the amount to be withheld for support is the maximum allowed under subsection (8) of this section, in which case the fee is deducted from the amount withheld as support.

(7) If there are multiple withholding orders against the same obligor, the amount to be withheld is the sum of each support order calculated independently.

(8) No withholding as calculated under this section, including the processing fee permitted in subsection (6) of this section, shall exceed 50 percent of the obligor's net disposable income. The limit established in this subsection applies whenever withholding is implemented under this section, whether by a single order or by multiple orders against the same obligor.

(9) When the obligor's income is not sufficient for the withholder to fully comply with each withholding order, the withholder shall withhold the maximum amount allowed under this section. If all withholding orders for a particular obligor are payable to or through the Department of Justice, the withholder shall pay to the Department of Justice the income withheld and the Department of Justice shall determine priorities for allocating income withheld to multiple child support cases relative to that obligor. If one or more of the withholding orders for a particular obligor require payment other than to or through the Department of Justice, the withholder shall use the following to determine priorities for withholding and allocating income withheld to multiple child support cases:

(a) If the amount withheld from the obligor's income is sufficient to pay the current support due to each case but is not enough to fully comply with the withholding order for each case where past due support is owed, the withholder shall:

(A) Pay to each case the amount of support due for the current month; and

(B) Pay the remainder of the amount withheld in equal amounts to each case where arrearages are owed. However, no case shall receive more than the total amount of current support and past due support owed to that case at the time the payment is made.

(b) If the amount withheld is not sufficient to pay the current support due to each case, each case shall be paid a proportionate share of the amount withheld. The withholder shall determine this for each case by dividing the monthly amount ordered as current support for that case by the combined monthly amount ordered as current support for all cases relative to the same obligor, and multiplying this percentage by the total amount withheld.

(10) An order to withhold income is not subject to the limitations of ORS 23.186.

(11) A withholder shall withhold funds as directed in the order to withhold, except that when a withholder receives an income-withholding order issued by another state, the withholder shall apply the income-withholding law of the state of the obligor's principal place of employment in determining:

(a) The withholder's fee for processing an income-withholding order;

(b) The maximum amount permitted to be withheld from the obligor's income;

(c) The time periods within which the withholder must implement the income-withholding order and forward the child support payment;

(d) The priorities for withholding and allocating income withheld for multiple child support obligees; and

(e) Any withholding terms or conditions not specified in the order. [Formerly 25.351; 2001 c.455 §10]

25.417 Amount to be withheld when obligor paid more frequently than monthly. When an obligor is required to pay support by income withholding and is paid more often than monthly, the withholder shall withhold up to the full amount specified in the order to withhold, based on the obligor's pay period as specified in the order to withhold. The amount withheld may not exceed the maximum amount allowed under ORS 25.414 (8). [Formerly 25.353; 2001 c.455 §11]

25.420 [1985 c.671 §13; 1993 c.800 §4; repealed by 1995 c.608 §46]

25.421 Procedure if withholder does not withhold support. If for any reason a withholder does not withhold support in any month, the withholder shall explain the reason for not withholding. The withholder shall send the

explanation for not withholding to the person or entity to whom the withholder sends payments and shall send the explanation on the date that the withholder would normally send a payment. If the withholder does not send a payment because the obligor is no longer employed by the withholder, the withholder may include in the explanation the name and address of the obligor's new employer, if known. A withholder is not liable to the obligor for disclosure of this information. [Formerly 25.357]

25.424 Liability of withholder for withholding and for failing to withhold; unlawful employment practice; civil penalty. (1) No withholder is subject to civil liability to an individual or agency for conduct or actions in compliance with an order to withhold if the withholder:

- (a) Is served with an order to withhold under ORS 25.402 that is regular on its face; and
- (b) Complies with the terms of the order if the order appears to be in compliance with ORS 25.402.

(2) The withholder is liable for all amounts that the withholder fails to withhold or pay as required by the order to withhold or withholds or pays in excess of the amount required by the order to withhold. The holder of support rights, the obligor, the Division of Child Support or a district attorney may bring an action against the withholder:

(a) To recover all amounts that the withholder failed to withhold or pay or withheld or paid in excess of the amount required;

(b) To recover an additional amount as damages not to exceed the amount referred to in paragraph (a) of this subsection; and

(c) If the failure to withhold was willful or the result of gross negligence by the withholder, to have an additional amount imposed as a fine payable to the court not to exceed \$250 for each time the withholder failed to withhold or pay or withheld or paid an amount exceeding the amount required and to pay reasonable costs of the action including attorney fees.

(3)(a) An employer commits an unlawful employment practice if the employer discharges an employee, refuses to hire an individual or in any other manner discriminates, retaliates or takes disciplinary action against an obligor because of the entry or service of an order to withhold under ORS 25.378 and 25.402 or because of the obligations or additional obligations that the order imposes upon the employer. An obligor may bring an action to recover compensatory damages and a civil penalty not to exceed \$1,000 or may file a complaint with the Commissioner of the Bureau of Labor and Industries in the manner provided by ORS 659A.820. The commissioner may, in addition to the remedies provided for under ORS chapter 659A, impose a civil penalty not to exceed \$1,000. These remedies are in addition to any other remedy available in law or equity.

(b) Paragraph (a) of this subsection does not apply to actions taken by an employer pursuant to any condition of employment required by law.

(4) Nothing in ORS 25.372 to 25.427 precludes an action for contempt for disobedience of a judicial order to withhold. [Formerly 25.363; 2001 c.621 §67]

25.427 Rules. The Administrator of the Division of Child Support and the Director of Human Services shall make rules and take action as is necessary to carry out the purposes of ORS 25.372 to 25.427. [Formerly 25.365]

25.430 [1985 c.671 §13b; repealed by 1995 c.608 §46]

25.440 [1985 c.671 §14; repealed by 1995 c.608 §46]

25.450 [1985 c.671 §15; 1989 c.520 §1; 1993 c.596 §9; 1993 c.798 §28; 1993 c.800 §5; repealed by 1995 c.608 §46]

25.460 [1985 c.671 §16; 1993 c.596 §10; 1993 c.798 §29; repealed by 1995 c.608 §46]

25.470 [1985 c.671 §17; 1993 c.798 §30; repealed by 1995 c.608 §46]

25.480 [1985 c.671 §18; 1993 c.596 §11; 1993 c.798 §36; repealed by 1995 c.608 §46]

25.490 [1985 c.671 §19; 1993 c.798 §37; repealed by 1995 c.608 §46]

25.500 [1985 c.671 §20; 1993 c.798 §38; repealed by 1995 c.608 §46]

25.510 [1985 c.671 §21; 1993 c.798 §39; repealed by 1995 c.608 §46]

25.520 [1985 c.671 §22; 1993 c.798 §40; repealed by 1995 c.608 §46]

25.530 [1985 c.671 §23; repealed by 1995 c.608 §46]

INCOME TAX INTERCEPT

25.610 Procedure to collect support orders from state tax refunds; voluntary withholding; rules. (1)

Whenever support enforcement services are being provided and those services are funded in part through Title IV-D of the Social Security Act (42 U.S.C. 651, et seq.), the district attorney or the Division of Child Support of the Department of Justice, whichever is appropriate, may request the Department of Revenue, through the Department of Human Services or its designee, to collect past due child and spousal support from income tax refunds due to the obligor. Such request shall be based upon the payment record maintained pursuant to ORS 25.020.

(2) If support payment records have not been maintained as provided in ORS 25.020, then such a payment record may be established pursuant to ORS 25.164, 25.167 and 416.429.

(3) The Department of Human Services shall adopt rules:

(a) Setting out additional criteria for requests pursuant to subsection (1) of this section; and

(b) Directing how any support obligation collected by the Department of Revenue shall be distributed, consistent with federal regulations.

(4) The obligor and the obligee must be sent a written notice of the intent to apply the refund to the obligor's support obligation. The notice shall inform the parties of:

(a) The proposed action;

(b) The right to request a hearing to contest the proposed action; and

(c) That a hearing, if desired, must be requested within 30 days.

(5) Hearings must be requested within 30 days. At the hearing, no issue may be considered if it was previously litigated or if the obligor failed to exercise rights to appear and be heard or to appeal a decision which resulted in the accrual of the arrearage being used as a basis for a request under this section.

(6) When the Department of Revenue has been requested to collect past due child and spousal support from income tax refunds due to the obligor, the Department of Revenue shall not allow the obligor to apply any income tax refund to future taxes of the obligor.

(7) Notwithstanding any other provision of this section, an obligor who is not delinquent in payment of child or spousal support may authorize the Department of Revenue, through the Department of Human Services or its designee, to withhold any income tax refund owing to that obligor for the purpose of applying the moneys as a credit to the support account maintained by the Department of Justice. [1985 c.671 §§27,28; 1989 c.519 §6; 1991 c.588 §2; 1993 c.596 §12; 1997 c.170 §12; 1997 c.704 §33; 2001 c.455 §12]

25.620 Procedures to collect past due support from state tax refunds; fees. (1) The Department of Revenue shall establish procedures consistent with ORS 25.610 to collect past due child and spousal support from income tax refunds due to the obligor in the same manner that other delinquent accounts are collected under ORS 293.250.

(2) The Department of Revenue shall establish procedures to ensure that when an obligor has filed a joint income tax return, the obligor's spouse may apply for a share of the refund, if any. The procedures shall provide for notice to the obligee regarding any application by the obligor's spouse for a share of the refund.

(3) No collection shall be made by the Department of Revenue unless the debt is in a liquidated amount.

(4) Notwithstanding the provisions of ORS 293.250, the Department of Revenue shall designate a single fee to retain from moneys collected for child support as a reasonable fee to cover only the actual cost.

(5) The Department of Revenue shall forward the net proceeds of collections made under subsection (1) of this section to the Department of Justice. Such proceeds shall be applied pursuant to ORS 25.610 (3).

(6) Notwithstanding any other law relating to the confidentiality of tax records, the Department of Revenue shall send the Department of Justice the obligor's home address and Social Security number or numbers on each case submitted for collection pursuant to ORS 25.610. [1985 c.671 §29; 1993 c.596 §13; 1997 c.170 §13; 1997 c.704 §34; 2001 c.455 §27]

25.625 Federal tax offset; passport denial; rules.

(1) The Department of Human Services may furnish to the United States Secretary of Health and Human Services certifications appropriate to and required for action by the secretary to offset federal income tax returns and to deny, revoke or limit passports of individuals owing child support arrearages.

(2) The Department of Human Services shall adopt rules to carry out the purposes of subsection (1) of this section. [1997 c.746 §13]

Note: 25.625 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 25 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

DISCLOSURES OF INFORMATION BY FINANCIAL INSTITUTIONS

25.640 Definitions for ORS 25.643 and 25.646. For purposes of ORS 25.643 and 25.646:

(1) "Account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, share draft account, time deposit account or money-market mutual fund account.

(2) "Customer" has the meaning given that term in ORS 192.550.

(3) "Financial institution" means:

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

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

(c) Any benefit association, insurance company, safe deposit company, money-market mutual fund or similar entity authorized to do business in the state.

(4) "Financial records" has the meaning given that term in ORS 192.550. [1997 c.746 §120]

Note: 25.640 to 25.646 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 25 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

25.643 Disclosure of information on obligors by financial institutions; fees; liability. (1) The Department of Human Services and financial institutions doing business in this state shall enter into agreements to develop and operate a data match system using automated data exchanges to the maximum extent feasible.

(2) Pursuant to the agreements, financial institutions shall provide, for each calendar quarter, the name, address, Social Security number or other taxpayer identification number and other identifying information for each obligor who:

(a) Maintains an account at the institution; and

(b) Owes past due support, as identified by the department by name and Social Security number or other taxpayer identification number.

(3) The department shall pay a reasonable fee to a financial institution for conducting the data match provided for in this section. The fee may not exceed the actual costs incurred by the financial institution.

(4) A financial institution, including an institution-affiliated party as defined in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)), is not liable under any state law to any person:

(a) For any disclosure of information to the department under this section;

(b) For encumbering or surrendering any assets held by the financial institution in response to a notice of lien or levy issued by the department; or

(c) For any other action taken in good faith to comply with the requirements of this section. [1997 c.746 §121]

Note: See note under 25.640.

25.646 Disclosure of financial records of customers by financial institutions; liability. (1) Upon request of the Department of Justice and the receipt of the certification required under subsection (2) of this section, a financial institution shall provide financial records of a customer.

(2) In requesting information under subsection (1) of this section, the department shall provide the name and Social Security number of the person whose financial records are sought and shall state with reasonable specificity the financial records requested. The department shall certify to the financial institution in writing, signed by an agent of the

department:

(a) That the person whose financial records are sought is a party to a proceeding to establish, modify or enforce the child support obligation of the person; and

(b) That the department has authorization from the person for release of the financial records, has given the person written notice of its request for financial records or will give the notice within five days after the financial institution responds to the request.

(3) The department shall reimburse a financial institution supplying financial records under this section for actual costs incurred.

(4) A financial institution, including an institution-affiliated party as defined in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)), that supplies financial records to the department under this section is not liable to any person for any loss, damage or injury arising out of or in any way pertaining to the disclosure of the financial records.

(5) A financial institution that is requested to supply financial records under this section may enter into an agreement with the department concerning the method by which requests for financial records and responses from the financial institution shall be made.

(6) The department shall provide a reasonable time to the financial institution for responding to a request for financial records.

(7) The department shall seek financial records under this section only:

(a) With respect to a person who is a party to a proceeding to establish, modify or enforce the child support obligation of the person; or

(b) According to the provisions of ORS 25.083. [1997 c.746 §122; 1999 c.930 §4; 2001 c.455 §13]

Note: See note under 25.640.

CONSUMER REPORTING AGENCIES

25.650 Information on past due support to consumer reporting agencies; rules. (1)(a) Notwithstanding any other law, and subject to rules established by the Department of Human Services, for cases in which there is past due support, the Department of Justice shall:

(A) Report periodically to consumer reporting agencies the name of any obligor who is delinquent in the payment of support and the amount owed by the obligor; and

(B) Otherwise make available to a consumer reporting agency upon its request information regarding the amount of past due support owed by an obligor.

(b) The Department of Justice must provide advance notice to both the obligor and the obligee concerning the proposed release of information to the consumer reporting agency. The notice must inform both parties of the methods available for contesting the accuracy of the information.

(2)(a) If paternity has been established and a consumer report is needed for the purpose of establishing or modifying a child support order, the entity providing support enforcement services may request that a consumer reporting agency provide a report.

(b) At least 10 days prior to making a request under paragraph (a) of this subsection, the entity must notify the obligor or obligee whose report is requested, by certified or registered mail, that the report will be requested.

(3) As used in subsections (1), (2), (4) and (6) of this section, unless the context requires otherwise, "consumer reporting agency" means any person which, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(4) The Department of Justice shall disclose information under subsection (1) of this section only to an entity that has furnished evidence satisfactory to the Department of Justice that the entity is a consumer reporting agency.

(5) The Department of Human Services shall include in rules adopted under this section a provision that prior to issuing a periodic report the Department of Justice shall provide the obligor with advance notice and an opportunity to object to the claimed delinquency or to bring the past due support current before the Department of Justice issues the periodic report.

(6) When the Department of Justice has made a report to a consumer reporting agency under subsection (1) of this section, the Department of Justice shall promptly notify the consumer reporting agency when the Department of

Justice's records show that the obligor no longer owes past due support. [1985 c.671 §§45,46; 1993 c.596 §14; 1997 c.704 §35; 1999 c.80 §66]

LIENS ON PERSONAL PROPERTY

25.670 Judgment lien on personal property. (1) Whenever there is a judgment for unpaid child or spousal support, a lien arises by operation of law on any personal property owned by the obligor, and the lien continues until the liability for the unpaid support is satisfied or the judgment or renewal thereof has expired. For purposes of this section and ORS 25.680 and 25.690, liability for the unpaid support includes the amount of unpaid support, with interest, and any costs that may be associated with lawful execution on the lien including, but not limited to, attorney fees, costs of notice and sale, storage and handling.

(2)(a) A lien arising under subsection (1) of this section may be recorded under ORS 18.320 by filing a written notice of claim of lien with the county clerk of the county in which the obligor resides or the property is located. The notice of claim of lien required under this subsection shall be a written statement and must include:

(A) A statement of the total amount due, as of the date of the filing of the notice of claim of lien;

(B) The name and address of the obligor and obligee;

(C) The name and address of the office of the district attorney, Division of Child Support or other person or entity filing the notice;

(D) A statement identifying the county where the underlying support order was entered and its case number;

(E) A description of the personal property to be charged with the lien sufficient for identification; and

(F) A statement of the date the lien expires under the laws of the issuing state. If no expiration date is provided, the lien expires in Oregon five years from the date of recording.

(b) The county clerk shall record the notice of claim of lien filed under paragraph (a) of this subsection in the County Clerk Lien Record.

(3)(a) When a notice of claim of lien is recorded pursuant to subsection (2) of this section, the person or entity filing the notice of claim of lien shall send forthwith a copy of the notice to the owner of the personal property to be charged with the lien by registered or certified mail sent to the owner's last-known address.

(b) A copy of the notice shall also be sent to the obligee by regular mail.

(4) Liens described in subsection (1) of this section that arise by operation of law in another state shall be accorded full faith and credit if the state agency, party or other entity seeking to enforce the lien follows the applicable procedures for recording and service of notice of claim of lien set forth in this section. A state agency, party or other entity may not file an action to enforce a lien described in this section until the underlying judgment has been filed in Oregon as provided in ORS chapter 110. [1985 c.671 §47; 1993 c.223 §3; 1993 c.596 §15; 1999 c.80 §34]

25.680 Effect of lien; priority. (1) Whenever a notice of claim of lien has been recorded under ORS 25.670 (2), the owner of the personal property may not release, sell, transfer, pay over, encumber or convey the personal property which is the subject of the lien until the Department of Human Services or person to whom the support is or was owed or, if services are being provided under Title IV-D of the Social Security Act, the enforcing agency of this or any other state releases the lien, the lien has been satisfied or a court has ordered release of such lien on the basis that no debt exists or that the debt has been satisfied. The limitations of this subsection shall not apply to transfers or conveyances of the property by the owner to the holder of a security interest that was in existence at the time the notice of claim of lien was filed.

(2) The rights of bona fide purchasers for value or persons with a security interest in the personal property are not affected by the creation or the existence of the lien.

(3) Liens filed under ORS 25.670 do not have priority over previously perfected security interests. [1985 c.671 §48; 1999 c.80 §35]

25.690 Foreclosure of lien. A lien arising pursuant to ORS 25.670 may be foreclosed in the manner set out in ORS 87.262, ORS chapter 23 or in any other manner permitted under law. [1985 c.671 §49; 1999 c.80 §36]

EXPIRATION OF JUDGMENT

25.700 Expiration of judgment; renewal of judgment; judgment creates continuing personal obligation. (1) Notwithstanding ORS 18.360 and 107.126, any judgment that results from an unpaid child support obligation under a

child support judgment entered after January 1, 1994, and any docketed or recorded lien thereof, expires 25 years after entry of the child support judgment. The judgment and any docketed or recorded lien thereof may not be renewed.

(2) A judgment that results from an unpaid child support obligation under a child support judgment entered before January 1, 1994, and any docketed or recorded lien thereof, may be renewed for a 10-year period as provided in ORS 18.360. The court may enter an ex parte order renewing the judgment. This subsection does not authorize the renewal of a judgment that has expired before January 1, 1994.

(3) The entry of a child support judgment before January 1, 1994, creates a continuing personal obligation of the obligor that is enforceable for 25 years after the date of entry. Except for the remedy of foreclosure against real property for which a judgment lien must exist, all other remedies for collection of unpaid child support under the personal obligation, including but not limited to garnishment, execution against personal property, wage withholding, set off or government offset program, is available under the child support judgment. This subsection does not authorize the renewal of a judgment that has expired before January 1, 1994.

(4) As used in this section:

(a) "Child support judgment" means the underlying judgment, decree or order that creates a child support obligation.

(b) "Judgment" means the judgment that results from an obligor's failure to make a periodic child support installment payment.

(5) The provisions of this section, ORS 7.040, 18.360 and 107.126 and ORCP 70 A that apply specifically to child support judgments do not apply to any portion of the judgment that deals with matters other than child support. [1993 c.763 §§2,4]

MISCELLANEOUS

25.710 Duty of district attorney. (1) Notwithstanding ORS 25.080, the district attorney, except as provided in subsection (2) of this section, shall continue to enforce support enforcement cases until the Department of Human Services otherwise directs if:

(a) The case was being enforced by the district attorney on October 1, 1985; and

(b) The case involves any arrearages assigned to any government agency.

(2) This section does not apply where the obligor or beneficiary of the support decree or order is receiving any of the following:

(a) General or public assistance as defined in ORS 411.010; or

(b) Care, support or services under ORS 418.015. [1985 c.671 §51a]

25.715 Child support paid from security deposit. (1) The court may order that the portion of a security deposit made under ORS 135.265 that would otherwise be returned to the person who made the deposit or the amount of child support arrearages, whichever is less, be paid to an obligee or the Division of Child Support of the Department of Justice if:

(a) The defendant is an obligor who owes child support arrearages;

(b) The obligee or the administrator has filed a motion requesting the court to make such an order;

(c) The obligee or the administrator has served the defendant with a copy of the motion;

(d) The defendant has an opportunity to respond and request a hearing; and

(e) The court has determined that such an order is appropriate.

(2) The court may order that a portion of a security amount forfeited under ORS 135.280 be paid to the division and be applied to any unsatisfied child support judgment and to provide security for child support payments in accordance with ORS 25.230 if:

(a) The defendant is an obligor who owes child support;

(b) The administrator has filed a motion requesting the court to make such an order;

(c) The motion specifies the amount to be applied to the child support judgment under ORS 135.280; and

(d) The court has determined that such an order is appropriate. [1999 c.1030 §5; 2001 c.705 §1]

25.720 When support assignable. (1) Except as provided in ORS 25.125, 418.032, 418.042, 419B.406 or 419C.597 or subsection (2) of this section, the right to receive child or spousal support payments under ORS chapters 107, 108, 109, 110, 416, 419B and 419C is not assignable, and any transaction in violation of this section is void.

(2) Notwithstanding the provisions of subsection (1) of this section, the right to receive support payments is

assignable as may be appropriate for the protection of a minor or other person under ORS chapters 125 and 128 and ORS 97.929, 97.937, 97.992 and 97.994.

(3) No person shall solicit or accept the assignment of support rights under subsection (1) of this section. [1985 c.671 §52(1),(2),(3); 1993 c.33 §288; 1995 c.514 §12; 1995 c.608 §34; 1995 c.664 §75; 1997 c.385 §3]

25.722 [1993 c.798 §11; renumbered 25.375 in 1999]

25.725 Child Support Revolving Fund. (1) The Child Support Revolving Fund is established in the State Treasury separate and distinct from the General Fund. Interest earned by the fund shall be credited to the fund. All moneys in the Child Support Revolving Fund are appropriated continuously for the purposes of ORS 25.020, 25.610, 25.620 and 25.777.

(2) All moneys received by the Department of Justice pursuant to ORS 25.020, 25.620 and any other state or federal law authorizing the department to collect or receive child support payments shall be deposited in the Child Support Revolving Fund.

(3) The Child Support Revolving Fund is not subject to the provisions of ORS 291.234 to 291.260. [1995 c.262 §2; 1997 c.704 §36]

25.727 Garnishing income of person required to provide health insurance for child eligible under Medicaid.

(1) The Department of Human Services, or its designee, may garnish the wages, salary or other employment income of, and withhold amounts from state tax refunds to, any person who:

(a) Is required by court or administrative order to provide coverage of the cost of health services to a child eligible for medical assistance under Medicaid; and

(b) Has received payment from a third party for the costs of such services but has not used the payments to reimburse either the other parent or guardian of the child or the provider of the services.

(2) The Department of Human Services, or its designee, may take this action to the extent necessary to reimburse the state Medicaid agency for its costs, but claims for current and past due child support shall take priority over these claims. [1995 c.506 §9]

25.729 Application of laws to effectuate purposes of ORS chapter 110. Any provision in the laws of this state relating to establishment, modification and enforcement of support may be applied to effectuate the purposes of ORS chapter 110 to the extent that such application is not inconsistent with ORS chapter 110. [1995 c.608 §11]

SUSPENSION OF OCCUPATIONAL AND DRIVER LICENSES

25.750 Suspension of licenses, certificates, permits and registrations; when authorized; rules. (1) All licenses, certificates, permits or registrations that a person is required by state law to possess in order to engage in an occupation or profession or to use a particular occupational or professional title, all annual licenses issued to individuals by the Oregon Liquor Control Commission, all driver licenses or permits issued by the Department of Transportation and recreational hunting and fishing licenses, as defined by rule of the Department of Human Services, are subject to suspension by the respective issuing entities upon certification to the issuing entity by the administrator that a child support case record is being maintained by the Department of Justice, that the case is being enforced by the administrator under the provisions of ORS 25.080 and that one or both of the following conditions apply:

(a) That the party holding the license, certificate, permit or registration is under order or judgment to pay monthly child support and is in arrears, with respect to any such judgment or order requiring the payment of child support, in an amount equal to three months of support or \$2,500, whichever occurs later, and:

(A) Has not entered into an agreement with the administrator with respect to the child support obligation; or

(B) Is not in compliance with an agreement entered into with the administrator; or

(b) That the party holding the license, certificate, permit or registration has failed, after receiving appropriate notice, to comply with a subpoena or other procedural order relating to a paternity or child support proceeding and:

(A) Has not entered into an agreement with the administrator with respect to compliance; or

(B) Is not in compliance with such an agreement.

(2) The Department of Human Services by rule shall specify the conditions and terms of agreements, compliance with which precludes the suspension of the license, certificate, permit or registration. [1993 c.365 §2; 1995 c.620 §1; 1995 c.750 §7; 1997 c.704 §37; 1999 c.80 §11; 2001 c.323 §1; 2001 c.455 §14]

25.752 Memberships in professional organizations that are required by state law. As used in ORS 25.750 to 25.783, “licenses, certificates, permits or registrations” includes, but is not limited to, memberships in professional organizations that are required by state law in order to engage in a profession. [1995 c.620 §12]

25.753 [1993 c.365 §3; repealed by 1995 c.620 §13]

25.756 Identifying persons holding licenses, certificates, permits and registrations. The Department of Justice shall enter into agreements regarding the identification of persons who are subject to the provisions of ORS 25.750 to 25.783 and who hold licenses, certificates, permits or registrations with:

- (1) The Oregon Liquor Control Commission;
- (2) All entities that issue licenses, certificates, permits or registrations that a person is required by state law to possess to engage in an occupation, profession or recreational hunting or fishing or to use a particular occupational or professional title; and
- (3) The Department of Transportation. [1993 c.365 §4; 1995 c.620 §2; 1995 c.750 §8; 1997 c.704 §38; 1999 c.80 §12]

25.759 Notice to persons subject to suspension; contents. Upon identification of a person subject to suspension under ORS 25.750 to 25.783, the administrator may issue a notice, sent by regular mail to both the address of record as shown in the records of the issuing entity and the address of record as shown on the administrator’s child support file. Such notice shall contain the following information:

- (1) That certain licenses, certificates, permits and registrations, which shall be specified in the notice, are subject to suspension as provided for by ORS 25.750 to 25.783.
- (2) The name, Social Security number, if available, date of birth, if known, and child support case number or numbers of the person subject to the action.
- (3) The amount of arrears and the amount of the monthly child support obligation, if any, or, if suspension is based on ORS 25.750 (1)(b), a description of the subpoena or other procedural order with which the person subject to the action has failed to comply.
- (4) The procedures available for contesting the suspension of a license, certificate, permit or registration.
- (5) That the only bases for contesting the suspension are:
 - (a) That the arrears are not greater than three months of support or \$2,500;
 - (b) That there is a mistake in the identity of the obligor;
 - (c) That the person subject to the suspension has complied with the subpoena or other procedural order identified in subsection (3) of this section; or
 - (d) That the person subject to the suspension is in compliance with a previous agreement as provided for by ORS 25.750 to 25.783.
- (6) That the obligor may enter into an agreement, prescribed by rule by the Department of Human Services, compliance with which shall preclude the suspension under ORS 25.750 to 25.783.
- (7) That the obligor has 30 days from the date of the notice to contact the administrator in order to:
 - (a) Contest the action in writing on a form prescribed by the administrator;
 - (b) Comply with the subpoena or procedural order identified in subsection (3) of this section; or
 - (c) Enter into an agreement authorized by ORS 25.750 and 25.762. The notice shall state that any agreement must be in writing and must be entered into within 30 days of making contact with the administrator.
- (8) That failure to contact the administrator within 30 days of the date of the notice shall result in notification to the issuing entity to suspend the license, certificate, permit or registration. [1993 c.365 §5; 1995 c.620 §3; 1997 c.704 §39; 1999 c.80 §13; 2001 c.323 §2; 2001 c.455 §15]

25.762 Agreement between obligor and administrator; effect of failure to contest suspension or to enter into agreement. (1) If the administrator is contacted within 30 days of the date of the notice specified in ORS 25.759, the administrator and the obligor may enter into an agreement as provided for by rule of the Department of Human Services. If no contest is filed or if no agreement is entered into within the time prescribed by ORS 25.750 to 25.783, or if the obligor fails to comply with the terms of an agreement previously entered into, the administrator shall advise the issuing entity to suspend the license, certificate, permit or registration forthwith.

- (2) After receipt of notice to suspend from the administrator, no further administrative review or contested case

proceeding within or by the issuing entity is required. [1993 c.365 §6; 1995 c.620 §4; 1999 c.80 §14; 2001 c.323 §3]

25.765 Procedure if obligor contacts administrator within time limits; hearing. (1) If the obligor makes the contact within 30 days of the date of the notice as provided for in ORS 25.759, the administrator shall provide the obligor with the opportunity to contest the suspension on the bases set forth in ORS 25.759 (5). The administrator shall determine whether suspension should occur. If the administrator determines that suspension should occur, the administrator shall make a written determination of such finding.

(2) The obligor may appeal the determination described in subsection (1) of this section. Any hearing on such appeal shall be conducted by a hearing officer assigned from the Hearing Officer Panel established under section 3, chapter 849, Oregon Laws 1999. ORS 183.310 to 183.550 shall apply and such appeal of the administrator's determination shall be de novo to the hearing officer. Any suspension is stayed pending the decision of the hearing officer. Any order of the hearing officer that supports a suspension shall result in the notification to the issuing entity by the administrator to suspend the license forthwith.

(3) After receipt of notice to suspend from the administrator, no further administrative review or contested case proceeding within or by the issuing entity is required. [1993 c.365 §7; 1995 c.620 §5; 1999 c.80 §15; 1999 c.849 §43; 2001 c.323 §4]

Note: The amendments to 25.765 by section 44, chapter 849, Oregon Laws 1999, become operative January 1, 2004. See section 45, chapter 849, Oregon Laws 1999. The text that is operative on and after January 1, 2004, including amendments by section 5, chapter 323, Oregon Laws 2001, is set forth for the user's convenience.

25.765. (1) If the obligor makes the contact within 30 days of the date of the notice as provided for in ORS 25.759, the administrator shall provide the obligor with the opportunity to contest the suspension on the bases set forth in ORS 25.759 (5). The administrator shall determine whether suspension should occur. If the administrator determines that suspension should occur, the administrator shall make a written determination of such finding.

(2) The obligor may appeal the determination described in subsection (1) of this section. Any hearing on such appeal shall be conducted by a hearing officer appointed by the Employment Department. ORS 183.310 to 183.550 shall apply and such appeal of the administrator's determination shall be de novo to the hearing officer. Any suspension is stayed pending the decision of the hearing officer. Any order of the hearing officer that supports a suspension shall result in the notification to the issuing entity by the administrator to suspend the license forthwith.

(3) After receipt of notice to suspend from the administrator, no further administrative review or contested case proceeding within or by the issuing entity is required.

25.768 Judicial review of order. The order of the hearings officer is final and is subject to judicial review as provided in ORS 183.482. Any suspension under ORS 25.750 to 25.783 is not stayed pending judicial review. [1993 c.365 §8]

25.771 Obligor holding more than one license, certificate, permit or registration. In the event that an obligor holds more than one license, certificate, permit or registration described in ORS 25.750, any determination regarding suspension of one license, certificate, permit or registration is sufficient to suspend any other license, certificate, permit or registration described in ORS 25.750. [1993 c.365 §9; 1995 c.620 §6]

25.774 Reinstatement. When, at any time after suspension under ORS 25.750 to 25.783, the conditions resulting in the suspension no longer exist, the administrator shall so notify the issuing entity and shall confirm that the license, certificate, permit or registration may be reinstated contingent upon the requirements of the issuing entity. Until the issuing entity receives notice under this section, the issuing entity may not reinstate, reissue, renew or otherwise make the license, certificate, permit or registration available to the holder of the suspended license, certificate, permit or registration. [1993 c.365 §10; 1995 c.620 §7; 1999 c.80 §16; 2001 c.323 §6]

25.777 Reimbursing issuing entities for costs incurred. The Department of Justice shall enter into agreements to reimburse issuing entities for their costs of compliance with ORS 25.750 to 25.783 to the extent that those costs are eligible for Federal Financial Participation under Title IV-D of the Social Security Act. [1993 c.365 §11; 1995 c.620 §8; 2001 c.323 §7]

25.780 Other licenses, certificates, permits and registrations subject to suspension. In addition to any other

grounds for suspension provided by law:

(1) The Oregon Liquor Control Commission and any entity that issues licenses, certificates, permits or registrations that a person is required by state law to possess to engage in an occupation, profession or recreational hunting or fishing or to use a particular occupational or professional title shall suspend without further hearing the licenses, certificates, permits or registrations of a person upon certification by the administrator that the person is subject to an order suspending the license, certificate, permit or registration. The certification must include the information specified in ORS 25.750 (1).

(2) The Department of Transportation shall suspend without further hearing the driver license or driver permit of a person upon certification by the administrator that the person is subject to an order suspending the license or permit. The certification must include the information specified in ORS 25.750 (1). [1993 c.365 §13; 1995 c.620 §9; 1995 c.750 §5; 1999 c.80 §17; 2001 c.323 §8]

25.783 Confidentiality of information. Any entity described in ORS 25.756 that receives an inquiry as to the status of a person who has had a license, certificate, permit or registration suspended under ORS 25.750 to 25.783 shall respond only that the license, certificate, permit or registration was suspended pursuant to ORS 25.750 to 25.783. The entity shall not release or make other use of information that it receives pursuant to ORS 25.750 to 25.783. [1993 c.365 §14; 1995 c.620 §10]

25.785 Issuing entities to require Social Security number. Any state agency, board or commission that is authorized to issue an occupational, professional or recreational license, certification or registration subject to suspension pursuant to ORS 25.750 to 25.783 shall require that an individual's Social Security number be recorded on an application for, or form for renewal of, a license, certification or registration and shall include the Social Security number in automated databases containing information about the individual. [1997 c.746 §117; 1999 c.80 §93]

Note: 25.785 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 25 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

EMPLOYER REPORTING PROGRAM

25.790 Hiring or rehiring individual; report required; contents. (1)(a) An employer shall report to the Division of Child Support of the Department of Justice the hiring or rehiring of an individual who resides or works in the state and to whom the employer anticipates paying earnings if the employer:

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

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

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

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

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

(B) In the case of an employer transmitting reports magnetically or electronically, by transmissions each month not less than 12 days nor more than 16 days apart.

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

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

(4) As used in this section:

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

(b) "Rehire" means to re-employ any individual who was laid off, separated, furloughed, granted a leave without pay or terminated from employment for more than 45 days. [1993 c.753 §1; 1995 c.381 §2; 1999 c.80 §18]

25.792 Confidentiality. Information received under ORS 25.790 is confidential and exempt from public

disclosure, except that the Division of Child Support of the Department of Justice shall provide information to other public agencies, upon request, as required by law. [1993 c.753 §2; 1999 c.80 §19]

25.794 Verification of employment; information about compensation and benefits; rules. (1) Upon the request of the Division of Child Support of the Department of Justice, the Department of Human Services, the office of a district attorney or an equivalent agency providing child support services in another state, all persons or entities in the state, including but not limited to for-profit, nonprofit and government employers, shall verify the employment of individuals and provide, in addition and if requested, information about compensation and benefits paid to the individual whether as an employee or a contractor.

(2) Upon request of an enforcing agency of another state, only a court or enforcing agency of Oregon may enforce a request for information made by the enforcing agency of the other state under this section.

(3) The Department of Human Services shall adopt rules to implement the provisions of this section. [1993 c.753 §3; 1999 c.80 §29]

PENALTIES

25.990 Penalties. (1) Violation of ORS 25.720 (3) is a Class A violation.

(2) Violation of ORS 25.260 is punishable, upon conviction, by a fine of not more than \$1,000 or by imprisonment in the county jail for not more than 60 days, or by both. [1985 c.671 §52(4); 1989 c.812 §3(2); 1999 c.1051 §147]