

Chapter 25 — Support Enforcement

2013 EDITION

SUPPORT ENFORCEMENT

PROCEDURE IN CIVIL PROCEEDINGS

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GENERAL PROVISIONS

25.010 Definitions for support enforcement laws. As used in ORS chapters 25, 107, 109 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” has the meaning given that term in ORS 110.303.

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

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

(5) “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.

(6) “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.

(7) “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.

(8) “Obligee” has the meaning given that term in ORS 110.303.

(9) “Obligor” has the meaning given that term in ORS 110.303.

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

(11) “Public assistance” has the meaning given that term in ORS 416.400.

(12) “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; 2003 c.572 §2; 2005 c.560 §1; 2009 c.351 §4]

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 the department will 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, within 30 days after the date of the notice, a party requests that the department establish the arrearage on the account as provided in ORS 25.167 or 416.429.

(3) If, within 30 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; 2011 c.318 §15]

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 that are ordered, registered or filed under this chapter or ORS chapter 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 under ORS 412.024, 418.032, 419B.406 or 419C.597;

(b) As provided by rules adopted under ORS 180.345, when public assistance 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 under ORS 25.080;

(e) When ordered by the court under 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)(a) 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.

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

(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 of Justice:

(A) Shall disburse support payments, to which the obligee is legally entitled, to the collection agency if the obligee submits the completed form referred to in paragraph (c)(A) of this subsection to the department;

(B) May reinstate disbursements to the obligee if:

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

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

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

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

(D) 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.

(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 administrator for purposes of providing support enforcement services under ORS 25.080;

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

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

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

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

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

(5) The Department of Justice shall notify each obligor and obligee by mail when support payments shall be made to the department 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, to the extent allowed by federal law.

(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 paragraphs (d) and (e) of this subsection, a judgment or order establishing paternity or including a provision concerning support must contain:

(A) The residence, mailing or contact address, Social Security number, telephone number and driver license number of each party;

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

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

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

(b) The judgment 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 the change; and

(B) May request that the administrator review the amount of support ordered after three years, or such shorter cycle as determined by rule of the Department of Justice, 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, which 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 administrative law judge, 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 Justice 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.

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

(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 may not be given for payments not made to the Department of Justice as required under subsection (1) of this section.

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

(a) When 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) When 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) When payments are assigned to another state and that state verifies that payments not paid to the department were received by the other state; or

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

(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 an administrative law judge assigned from the Office of Administrative Hearings 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 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 Justice shall adopt rules that:

(a) Direct how support payments that are made through the department are to be applied and disbursed; 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 §§2,3; 2001 c.961 §1; 2003 c.73 §17a; 2003 c.75 §23; 2003 c.380 §§6,7; 2003 c.421 §§1,2; 2003 c.572 §3; 2003 c.576 §§292,293a; 2005 c.561 §2; 2007 c.861 §10; 2007 c.878 §1; 2009 c.352 §3]

25.025 Annual notice to parties receiving services under ORS 25.020. Once each year, the Department of Justice 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 18.225, 18.228, 18.232 and 18.235. [1997 c.385 §4; 2003 c.73 §18; 2003 c.576 §575]

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 escrow agent. (1) Support orders in respect of obligees not subject to ORS 25.020 may provide for payment under the order to a checking or savings account or by electronic transfer to an account maintained by an escrow agent, licensed under ORS 696.511, for distribution to the obligee, if the obligor and obligee have so elected or if the court in its discretion believes that payment to a checking or savings account or payment by electronic transfer to an account maintained by a licensed escrow agent will be in the best interest of the parties.

(2) Subsection (1) of this section applies only if an election has been made as provided in ORS 25.130. [Formerly 23.767; 1989 c.976 §36; 1991 c.230 §32; 1997 c.872 §4; 1999 c.80 §78; 2003 c.210 §1]

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 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; 2003 c.576 §294]

25.075 Cooperative agreements with Indian tribes or tribal organizations. (1) Notwithstanding the provisions of ORS 25.080, the Department of Justice 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 the agreement. [1997 c.746 §131; 1999 c.735 §5; 2003 c.73 §19]

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 Entity primarily responsible for support enforcement services; duties; application fees; rules. (1) The following entity is primarily responsible for providing the support enforcement services described in subsection (4) of this section when an application as described in ORS 25.084 is made, or when an assignment of support rights is made to the state:

(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 this or 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 this state or another state.

(b) Except as provided in subsection (6) of this section, the district attorney in cases other than those described in paragraph (a) of this subsection if an application as described in ORS 25.084 is made by the obligee, by the obligor, by a person having physical custody of a minor child or by a child attending school, as defined in ORS 107.108.

(2) The provisions of this section apply to support enforcement services for any order or judgment that is or could be entered under ORS 419B.400 or 419C.590 or ORS chapter 107, 108, 109, 110 or 416. The entity specified in subsection (1) of this section shall provide the support enforcement services on behalf of the State of Oregon and not on behalf of any other party or on behalf of a parent. The Department of Justice shall adopt 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 and the district attorney as described in subsection (1) of this section, provision of support enforcement services may 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 judgment 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 ensure 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 ensure that child support orders are in compliance with the formula established by this chapter.

(5) In any proceeding under subsection (4) of this section, the parties are those described in ORS 416.407.

(6) The district attorney of any county and the department 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.

(7) All county governing bodies and all district attorneys shall enter into child support cooperative agreements with the department. 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.

(8) The Department of Justice shall enter into an agreement with the Oregon District Attorneys Association to establish a position or positions to act as a liaison between the Division of Child Support and those district attorneys who provide support enforcement services under this section. The department shall fund the position or positions. The Oregon District Attorneys Association shall administer the liaison position or positions under the agreement. The liaison shall work to:

(a) Enhance the participation and interaction of the district attorneys in the development and implementation of Child Support Program policies and services; and

(b) Increase the effectiveness of child support enforcement services provided by the district attorneys.

(9) 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 applicant, but may in their discretion, upon a determination and notice to the applicant that the 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. If service performed results in the district attorney or the Division of Child Support recovering any support enforcement fees, the fees shall be paid to the applicant in an amount equal to the amount of the application fee.

(10) An obligee may request the Division of Child Support 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, 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; 2003 c.73 §20; 2003 c.576 §295; 2005 c.560 §2; 2009 c.352 §4]

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 under 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 under 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 192.600, 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 183.745.

(5) The Department of Justice shall adopt rules to implement the provisions of this section. [1997 c.746 §33; 2003 c.73 §21]

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 by execution as defined in ORS 18.005 or by 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; 2003 c.576 §576]

25.084 Assignment of rights or written application required for services; incorporation in judgment. (1) The administrator may provide support enforcement services as described in ORS 25.080 only if support rights have been assigned to the state or if a person has provided a written application to the administrator that:

(a) Is signed by the person;

(b) Includes the last-known addresses of the obligor and the obligee; and

(c) Indicates that the person is applying for child support services.

(2) Any support judgment that provides for payment to the Department of Justice under ORS 25.020 may have an application incorporated in the judgment. [2009 c.352 §2; 2011 c.318 §5]

Note: 25.084 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.

25.085 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, to an address provided by the 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 must 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 must be noted on the computerized case record. If no new address for service by regular mail can be obtained, service must be by certified mail, return receipt requested, by personal service upon the obligee, or by any other mail service with delivery confirmation.

(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; 2003 c.572 §4; 2011 c.318 §8]

Note: 25.085 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.

25.088 Effect of dismissal of judicial proceeding on existing administrative order of support. Unless otherwise provided, a general judgment of dismissal of a judicial proceeding under ORS chapter 107, 108 or 109 for want of prosecution under ORCP 54 B(3) does not dismiss an administrative support order that was entered under ORS 416.400 to 416.465 before the date of the dismissal where the parental parties involved in the judicial proceeding are the same as those affected by the administrative order of support. [2013 c.185 §2]

Note: 25.088 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.

25.089 Enforcement and modification of child support judgments. (1) As used in this section, “child support judgment” means the terms of a judgment or order of a court, or an order that has been filed under ORS 416.440, that provide for past or current child support, including medical support as defined in ORS 25.321. “Child support judgment” does not include any term of a judgment or order that deals with matters other than child support.

(2)(a) A child support judgment originating under ORS 416.440 has all the force, effect and attributes of a circuit court judgment. The judgment lien created by a child support judgment originating under ORS 416.440 applies to all arrearages owed under the underlying order from the date the administrator or administrative law judge entered, filed or registered the underlying order under ORS 416.400 to 416.465 or ORS chapter 110.

(b) Until the underlying order is filed under ORS 416.440, the order may not be enforced against and has no lien effect on real property.

(c) No action to enforce a child support judgment originating under ORS 416.440 may be taken while the child support judgment is stayed under ORS 416.427, except as permitted in the order granting the stay.

(3) In any judicial or administrative proceeding in which child support may be awarded under this chapter or ORS chapter 107, 108, 109, 110 or 416 or ORS 125.025, 419B.400 or 419C.590, if a child support judgment already exists with regard to the same obligor and child:

(a) A court may only enforce the existing child support judgment, modify the existing child support judgment as specifically authorized by law or set aside the existing child support judgment under subsection (6) of this section or under the provisions of ORCP 71. If the court sets aside the existing child support judgment, the court may issue a new child support judgment.

(b) The administrator or administrative law judge may only enforce the existing child support judgment, modify the existing child support judgment as specifically authorized by law or, with regard to an existing child support judgment originating under ORS 416.400, move to set aside the existing child support judgment under subsection (6) of this section or for the reasons set out in ORCP 71.

(4) If the administrator or administrative law judge finds that there exist two or more child support judgments involving the same obligor and child and the same period of time, the administrator or administrative law judge shall apply the provisions of ORS 416.448.

(5)(a) If the court finds that there exist two or more child support judgments involving the same obligor and child and the same period of time, and each judgment was issued in this state, the court shall apply the provisions of ORS 25.091 to determine the controlling terms of the child support judgments and to issue a governing child support judgment as defined in ORS 25.091.

(b) If the court finds that there exist two or more child support judgments involving the same obligor and child and the same period of time, and one or more of the judgments was issued by a tribunal of another state, the court shall apply the provisions of ORS chapter 110 to determine which judgment is the controlling child support order.

(6) Subject to the provisions of subsection (3) of this section, a court may modify or set aside a child support judgment issued in this state when:

(a) The child support judgment was issued without prior notice to the issuing court, administrator or administrative law judge that:

(A) There was pending in this state or any other jurisdiction any type of support proceeding involving the child; or

(B) There existed in this state or any other jurisdiction another child support judgment involving the child; or

(b) The child support judgment was issued after another child support judgment, and the later judgment did not enforce, modify or set aside the earlier judgment in accordance with this section.

(7) When modifying a child support judgment, the court, administrator or administrative law judge shall specify in the modification judgment the effects of the modification on the child support judgment being modified. [2003 c.146 §2; 2003 c.576 §298a; 2005 c.22 §14; 2009 c.351 §5]

Note: 25.089 and 25.091 were added to and made a part of ORS chapter 25 by legislative action but were not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

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

25.091 Multiple child support judgments. (1) As used in this section:

(a) “Child support judgment” has the meaning given that term in ORS 25.089.

(b) “Governing child support judgment” means a child support judgment issued in this state that addresses child support, including medical support as defined in ORS 25.321, and is entitled to exclusive prospective enforcement or modification with respect to any earlier child support judgment issued in this state.

(2) Notwithstanding any other provision of this section or ORS 25.089, when two or more child support judgments exist involving the same obligor and child and one or more of the judgments was issued by a tribunal of another state, the court shall apply the provisions of ORS chapter 110 before enforcing or modifying a judgment under this section or ORS 25.089.

(3) When two or more child support judgments exist involving the same obligor and child and the same period, any party to one or more of the child support judgments or the administrator, under ORS 416.448, may file a petition with the court for a governing child support judgment under this section. When a matter involving a child is before the court and the court finds that two or more child support judgments exist involving the same obligor and child and the same period, the court on its own motion, and after notice to all affected parties, may determine the controlling terms of the child support judgments and issue a governing child support judgment under this section.

(4)(a) Except as provided in paragraph (b) of this subsection, when two or more child support judgments exist involving the same obligor and child and the same period, and each judgment was issued in this state, there is a presumption that the terms of the last-issued child support judgment are the controlling terms and terminate contrary terms of each earlier-issued child support judgment.

(b) If the earlier-issued child support judgment requires provision of a specific type of child support and the last-issued child support judgment is silent with respect to that type of child support, the requirement of the earlier-issued child support judgment continues in effect.

(5) A party may rebut the presumption in subsection (4) of this section by showing that:

(a) The last-issued child support judgment should be set aside under the provisions of ORCP 71;

(b) The last-issued child support judgment was issued without prior notice to the issuing court, administrator or administrative law judge that:

(A) There was pending in this state or any other jurisdiction any type of support proceeding involving the child; or

(B) There existed in this state or any other jurisdiction another child support judgment involving the child; or

(c) The last-issued child support judgment was issued after an earlier child support judgment and did not enforce, modify or set aside the earlier child support judgment in accordance with ORS 25.089.

(6) When a court finds that two or more child support judgments exist involving the same obligor and child and the same period, and each child support judgment was issued in this state, the court shall set the matter for hearing to determine the controlling terms of the child support judgments. When the child support judgments were issued in different counties of this state, the court may cause the records from the original proceedings to be transmitted to the court in accordance with ORS 25.100.

(7) Following a review of each child support judgment and any other evidence admitted by the court:

(a) The court shall apply the presumption in subsection (4) of this section, unless the presumption is rebutted, and

shall determine the controlling terms of the child support judgments; and

(b) Notwithstanding ORS 25.089 (3), the court shall issue a governing child support judgment addressing child support, including medical support as defined in ORS 25.321, for the benefit of the child.

(8) The governing child support judgment must include:

(a) A reference to each child support judgment considered and a copy of the judgment;

(b) A determination of which terms regarding child support, including medical support as defined in ORS 25.321, are controlling and which child support judgment or judgments contain those terms;

(c) An affirmation, termination or modification of the terms regarding child support, including medical support as defined in ORS 25.321, in each of the child support judgments;

(d) Except as provided in subsection (9) of this section, a reconciliation of any child support arrears or credits under all of the child support judgments; and

(e) The effective date of each controlling term and the termination date of each noncontrolling term in each of the child support judgments. In determining these dates, the court may apply the following:

(A) A controlling term is effective on the date specified in the child support judgment containing that term or, if no date is specified, on the date the child support judgment was entered as described in ORS 18.075.

(B) A noncontrolling term is terminated on the date the governing child support judgment is entered as described in ORS 18.075.

(9) The court may order the parties, in a separate proceeding under ORS 25.167 or 416.429, to reconcile any child support arrears or credits under all of the child support judgments.

(10) When the governing child support judgment is entered as described in ORS 18.075, the noncontrolling terms of each earlier child support judgment are terminated. However, subject to subsection (11) of this section, the entry of the governing child support judgment does not affect any child support payment arrearage or any liability related to medical support, as defined in ORS 25.321, that has accrued under a child support judgment before the governing child support judgment is entered.

(11) For purposes of reconciling any child support arrears or credits under all of the child support judgments, amounts collected and credited for a particular period under one child support judgment must be credited against the amounts accruing or accrued for the same period under any other child support judgment.

(12) Not sooner than 30 days and not later than 60 days after entry of the governing child support judgment, a party named by the court, or the petitioner if the court names no other party, shall file a certified copy of the governing child support judgment with each court or the administrator that issued an earlier child support judgment. A party who fails to file a certified copy of the governing child support judgment as required by this subsection is subject to monetary sanctions, including but not limited to attorney fees, costs and disbursements. A failure to file does not affect the validity or enforceability of the governing child support judgment.

(13) This section applies to any judicial proceeding in which child support may be awarded or modified under this chapter or ORS chapter 107, 108, 109 or 416 or ORS 125.025, 419B.400, 419B.923, 419C.590 or 419C.610. [2003 c.146 §3; 2005 c.22 §15; 2005 c.83 §2; 2009 c.351 §6]

Note: See note under 25.089.

Note: Section 1, chapter 83, Oregon Laws 2005, provides:

Sec. 1. (1) As used in this section:

(a) “Administrator” has the meaning given that term in ORS 25.010.

(b) “Child support judgment” has the meaning given that term in ORS 25.089.

(2) Notwithstanding the provisions of ORS 25.089, 25.091 and 416.448 to the contrary, the monetary support terms of a child support judgment originating under ORS 416.440 are terminated by the monetary support terms of a later-issued child support judgment of a court if:

(a) The two child support judgments involve the same obligor and child and the same period;

(b) The administrator was providing services under ORS 25.080;

(c) The later-issued child support judgment was entered before January 1, 2004;

(d) The administrator or a court gave the later-issued child support judgment precedence over the earlier-issued child support judgment originating under ORS 416.440; and

(e) All parties had an opportunity to challenge the amount of child support ordered in the later-issued child support judgment.

(3) Notwithstanding the provisions of ORS 25.091 (11) and 416.448 (7), for purposes of reconciling any monetary

support arrears or credits under the two child support judgments described in subsection (2) of this section:

(a) The monetary support terms of the child support judgment originating under ORS 416.440 are deemed terminated on the effective date of the later-issued child support judgment; and

(b) Entry of the later-issued child support judgment does not affect any support payment arrearage or credit that has accrued under the earlier-issued child support judgment originating under ORS 416.440. [2005 c.83 §1; 2007 c.356 §2]

25.100 Transfer of files to county where party resides or property located. (1) With respect to any order or judgment entered pursuant to ORS 107.095, 107.105, 108.120, 109.155, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110, if a party seeking modification or enforcement of an order or judgment 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; 2003 c.576 §296]

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 judgment the same as if it were the court which made and entered the original order or judgment for the payment of support. The only court having jurisdiction to modify any provision of the original order or judgment is the court having original jurisdiction of the cause in which such order or judgment 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; 2003 c.576 §297]

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 Justice 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 of Justice, 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 of Justice has returned the excess to the obligor under subsection (1) of this section;

(b) The Department of Justice 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 Justice shall:

- (A) Attempt to recover the overpayment if it is cost-effective to do so;
 - (B) 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) 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, an administrative law judge assigned from the Office of Administrative Hearings shall hear the objection. An order by the administrative law judge is final. An obligee may appeal the decision of an administrative law judge 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 of Justice 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 of Justice receives a check for support amounts due from an obligor or withholder subject to an order to withhold under this chapter;
 - (B) The Department of Justice 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 of Justice 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 of Justice 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 because of a change in physical custody of the child, the administrator may suspend enforcement of the support order if:
- (A) Collection of support would result in a credit balance if the motion were granted; and
 - (B) The obligee does not object to suspending enforcement of the support order.
- (b) The obligee may object, within 14 days after the date of the notice of intent to suspend enforcement of the support order, only on the grounds that:
- (A) The child is not in the physical custody of the obligor;
 - (B) The child is in the physical custody of the obligor without the consent of the obligee; or
 - (C) A credit balance would not result if the motion were granted.
- (c) A party may appeal the administrator's decision to suspend or not to suspend enforcement of the support order under ORS 183.484.
- (d) 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 of Justice shall adopt rules to carry out the provisions of this section. [1997 c.385 §2; 2001 c.961 §2; 2003 c.73 §22a; 2003 c.75 §72; 2003 c.572 §5; 2005 c.560 §3]

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 must 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:
- (a) The account number of the checking or savings account that is to be used; or
 - (b) The name of an escrow agent, licensed under ORS 696.511, to whom, and the account number into which, the

payments are to be electronically transferred.

(3) Notice of termination of the bank or escrow agent 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; 2003 c.210 §2]

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 establishment, enforcement, collection, accounting and disbursement services required by state law or administrative rule or by federal law or regulation, including the annual fee required under Title IV-D of the Social Security Act. [Formerly 23.815; 1997 c.704 §21; 1999 c.80 §81; 2007 c.878 §2]

25.160 Referral of support cases 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, a child support case shall be referred to the Department of Justice for provision of collection, accounting and disbursement services if an application as described in ORS 25.084 is made to the district attorney or to 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 a case referred to the department 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; 2009 c.352 §5]

25.164 Payment of support through Department of Justice; application. (1) If the payment method for support payments set forth in the support judgment does not require that payments be made through the Department of Justice, an application may be made to the department for support enforcement services under this chapter and under federal laws and regulations relating to support payments and enforcement of judgments. An application under this section may be made by an obligee, by an obligor, by a person having physical custody of a minor child or by a child attending school, as defined in ORS 107.108.

(2) An application under subsection (1) of this section must be in the form prescribed by ORS 25.084.

(3) If an application is made under subsection (1) of this section, the administrator shall give notice to all parties that the application has been made. All support payments under the judgment that are due after the notice is given must be made through the department.

(4) When an application is made under this section, the method of support accounting previously used for the support judgment terminates on the first day of the month following the month the application is made, and the department shall thereafter provide support accounting for the support judgment and disburse amounts paid under the judgment.

(5) If an application is made under this section and a complete record of support payments does not exist, the department may establish a record of arrearage under ORS 25.167. [Formerly 25.320; 2003 c.146 §6; 2009 c.352 §6]

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) A governing child support judgment issued under ORS 25.091 or 416.448;

(c) Administrative order issued under ORS 416.427 or 416.429;

(d) Stipulation of the parties; or

(e) 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 support judgment was entered. When a governing child support judgment has been issued, the person making the certificate shall file the original certificate with the court that issued the governing child support judgment.

(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 30 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 judgment 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 may not consider objections to the merits of the support judgment. 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 an application for support enforcement services is made under ORS 25.164, an agency or court may not 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 disbursement 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 disbursement 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; 2003 c.146 §7; 2003 c.576 §298; 2009 c.352 §7; 2011 c.318 §1]

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 Justice 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; 2003 c.73 §23]

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 ORS 412.001 to 412.069, 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, by certified mail, return receipt requested, or by any other mail service with delivery confirmation 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 30 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 an administrative law judge. The court or administrative law judge may consider only whether the presumption has been rebutted.

(5) If no objection is made, or if the court or administrative law judge 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 judgment has been entered 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 administrative law judge'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 judgment has been entered.

(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 administrative law judge 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 three years have elapsed, or such shorter cycle as determined by rule of the Department of Justice, since entry of a support order, the court or administrative law judge 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; 2003 c.75 §73; 2003 c.576 §299; 2007 c.861 §11; 2007 c.878 §3; 2009 c.80 §1; 2011 c.318 §2]

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

25.255 [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; 2003 c.73 §24a; 2003 c.75 §74; repealed by 2003 c.637 §14]

25.260 Confidentiality of records; rules. (1) As used in this section, “Child Support Program” means:

- (a) The program described in ORS 180.345;
- (b) The Administrator of the Division of Child Support of the Department of Justice;
- (c) A district attorney; and
- (d) The administrator’s or district attorney’s authorized representative.

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

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

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

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

(4) The Child Support Program may compare and share information with public and private entities as necessary to perform the program’s responsibilities under state and federal law.

(5) The Child Support Program may exchange information with state agencies administering programs funded under Title XIX and Part A of Title IV of the Social Security Act as necessary for the Child Support Program and the state agencies to perform their responsibilities under state and federal law.

(6) 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 in violation of subsection (2) of this section is subject to discipline, up to and including dismissal from employment.

(7) The Department of Justice shall adopt rules consistent with federal regulations governing confidentiality of Child Support Program information. [1989 c.812 §3(1); 1991 c.758 §2; 1995 c.609 §7; 1999 c.80 §72; 2003 c.450 §1; 2005 c.22 §16]

25.265 Access to information in Federal Parent Locator Service; rules. The Department of Justice 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; 2003 c.73 §25]

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. 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 that 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; and

(h) Other reasonable criteria that 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 ensure, 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 child support obligation to be paid by the obligor and determined under the formula described in subsection (1) of this section:

(a) May be reduced or increased in consideration of medical support, as provided in ORS 25.321 to 25.343.

(b) May be reduced dollar for dollar in consideration of any Social Security or apportioned 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 the obligor's disability or retirement.

(c) Shall be reduced dollar for dollar in consideration of any Survivors' and Dependents' Educational Assistance under 38 U.S.C. chapter 35 paid to the child, or to a representative payee administering the funds for the child's use and benefit, as a result of the obligor's disability or retirement. [1989 c.811 §3; 1993 c.800 §2; 1999 c.1030 §1; 2003 c.73 §26a; 2003 c.75 §75; 2003 c.572 §6; 2003 c.637 §15; 2009 c.351 §7]

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 chapter 107, 108, 109, 110 or

416 or ORS 419B.400, 419B.923, 419C.590 or 419C.610, the amount of support determined by the formula established under ORS 25.275 is presumed to be the correct amount of the obligation. This is 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 is 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; 2007 c.71 §8; 2007 c.356 §3]

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 25.275.

(b) Proceedings under this subsection may occur only after three years have elapsed, or such shorter cycle as determined by rule of the Department of Justice, 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 three years have elapsed, or such shorter cycle as determined by rule of the department, and whether the support obligation is in substantial compliance with the formula established under ORS 25.275.

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

(f) If the court, the administrator or the administrative law judge finds that more than three years have elapsed, or such shorter cycle as determined by rule of the department, the court, the administrator or the administrative law judge shall modify the support order to bring the support obligation into substantial compliance with the formula established under ORS 25.275, 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 administrative law judge 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 this chapter or ORS chapter 107, 108, 109, 110 or 416 or ORS 419B.400 or 419C.590.

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

- (a) Whether there is pending in this state or any other jurisdiction any type of support proceeding involving the child, including a proceeding brought under ORS 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165,

125.025, 416.400 to 416.465, 419B.400 or 419C.590 or ORS chapter 110; and

(b) Whether there exists in this state or any other jurisdiction a support order, as defined in ORS 110.303, involving the child, other than the support obligation the entity seeks to modify.

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

(4) The administrator, court or administrative law judge 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 three years have elapsed, or such shorter cycle as determined by rule of the department.

(5) 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.

(6) 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 §§7,8; 2003 c.75 §24; 2003 c.116 §§1,2; 2003 c.576 §§183,184; 2005 c.560 §4; 2007 c.71 §9; 2007 c.878 §4]

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 Department of Justice 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 receiving support enforcement services under ORS 25.080 may be appealed to the circuit court. [1995 c.608 §1b; 2003 c.73 §27]

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 §§38,39; 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]

MEDICAL SUPPORT

25.321 Definitions for ORS 25.321 to 25.343. As used in ORS 25.321 to 25.343:

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

(2) “Child support order” means a judgment or administrative order that creates child support rights and that is entered or issued under ORS 416.400 to 416.465, 419B.400 or 419C.590 or this chapter or ORS chapter 107, 108, 109 or 110.

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

(4) “Enforcing agency” means the administrator.

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

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

(7) “Medical support” means cash medical support and health care coverage.

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

(9) “Medical support notice” means a notice in the form prescribed under ORS 25.325 (5).

(10) “Plan administrator” means:

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

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

(11) “Private health care coverage” means all health care coverage other than medical assistance provided by a public body.

(12) “Providing party” means a party to a child support order who has been ordered by the court or the enforcing agency to provide medical support.

(13) “Public body” has the meaning given that term in ORS 174.109. [2003 c.637 §2; 2007 c.878 §5; 2009 c.351 §1; 2011 c.318 §13]

25.323 Medical support. (1) Every child support order must include a medical support clause.

(2) Whenever a child support order that does not include a medical support clause is modified the modification must include a medical support clause.

(3) A medical support clause may require that medical support be provided in more than one form, and may make the requirement that medical support be provided in a particular form contingent on the availability of another form of medical support.

(4) A medical support clause must require that one or both parents provide private health care coverage for a child that is appropriate and available at the time the order is entered. If private health care coverage for a child is not appropriate and available at the time the order is entered, the order must:

(a) Require that one or both parents provide private health care coverage for the child at any time thereafter when such coverage becomes available; and

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

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

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

(b) Is reasonable in cost and does not require the payment of unreasonable deductibles or copayments; and

(c) Provides coverage, at a minimum, for medical expenses, hospital expenses, preventive care, emergency care, acute care and chronic care.

(6) Private health care coverage is accessible for the purposes of subsection (5)(a) of this section if:

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

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

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

(8) Cash medical support and the cost of other medical support ordered under a medical support clause constitute a child support obligation and must be included in the child support calculation made under ORS 25.275. [2003 c.637 §3; 2007 c.878 §6; 2009 c.351 §2; 2009 c.595 §55; 2011 c.318 §6]

25.325 Enforcing medical support; form of notice; rules. (1) When a child support order with a medical support

clause is entered, the court or the enforcing agency may issue a qualified medical child support order as provided in section 609 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169). The qualified medical child support order shall direct the providing party's employer, or the plan administrator for the providing party's employee health care coverage, to enroll the providing party's child in the employee health benefit plan and direct the providing party's employer to withhold any required premium from the providing party's compensation.

(2) When a child support order with a medical support clause is entered and support enforcement services are being provided under ORS 25.080, the enforcing agency shall, when appropriate, issue a medical support notice to the providing party's employer within two business days after receiving information under ORS 25.790 that the employer has hired or rehired the providing party.

(3) If a child support order with a medical support clause is in effect or is being sought:

(a) The providing party's employer or the plan administrator for the providing party's employee health care coverage shall release to the enforcing agency, upon request, the name and address of the health benefit plan that provides the coverage and the plan administrator; and

(b) The plan administrator shall release to the obligee or the enforcing agency, upon request, information about health care coverage for dependents under the employee health benefit plan.

(4) If a qualified medical child support order or a medical support notice has been served on the providing party's employer, the order or notice is binding on the employer and the plan administrator for the providing party's employee health benefit plan to the extent that the child is eligible to be enrolled in the health benefit plan under the applicable terms and conditions of the plan and the standard enrollment guidelines as described in ORS 743.847. Enrollment of the child shall be allowed at any time, notwithstanding any enrollment season restrictions.

(5) The Department of Justice, by rule, shall prescribe the form of a medical support notice for the purposes of ORS 25.321 to 25.343. In prescribing the form, the department shall consider all relevant federal law relating to medical support notices. [2003 c.637 §4; 2007 c.878 §7; 2009 c.351 §3]

25.327 Service of medical support notice. (1) The enforcing agency shall serve the medical support notice on the providing party's employer as a withholder. The notice may be served upon the withholder or the withholder's registered agent, corporate officer, bookkeeper, accountant, person responsible for payroll or local office manager by:

(a) Personal service;

(b) Any type of mail that is calculated to give actual notice and is addressed to one of the persons listed in this subsection; or

(c) Electronic means if the employer has the ability to receive the medical support notice in that manner.

(2) Service of a medical support notice constitutes receipt of a medical child support order.

(3) The enforcing agency shall, as provided in ORS 25.333, notify the parties that the medical support notice has been served on the providing party's employer. [2003 c.637 §5; 2007 c.878 §8]

25.329 Actions required after service of medical support notice; rules. When the enforcing agency serves a medical support notice on an employer:

(1) The employer shall comply with the provisions in the medical support notice;

(2) The plan administrator and the employer shall treat the medical support notice as an application by the enforcing agency for health care coverage for the named child under the health benefit plan to the extent an application is required by the plan;

(3) If the providing party named in the medical support notice is not an employee of the employer, or if a health benefit plan is not offered or available to the providing party, the employer shall notify the enforcing agency within 20 business days after the date of the medical support notice;

(4) If a health benefit plan is offered or available to the providing party, the employer shall send the plan administrator's portion of the notice to each appropriate plan administrator within 20 business days after the date of the medical support notice;

(5) Within 40 business days after the date of the medical support notice, the plan administrator shall do all of the following as directed by the notice:

(a) Complete the appropriate portion of the notice and return the portion to the enforcing agency;

(b) If the child is or will be enrolled, notify the parties and furnish the obligee with the information necessary to effectuate coverage and submit claims for benefits;

(c) If the child has been or will be enrolled, provide the enforcing agency with the type of health benefit plan under which the child has been or will be enrolled, including whether dental, optical, office visits and prescription drugs are

covered services;

(d) If more than one health benefit plan is available to the providing party and the providing party is not enrolled, forward the health benefit plan descriptions and documents to the enforcing agency;

(e) If the providing party is subject to a waiting period that expires more than 90 days after the date of receipt of the medical support notice by the plan administrator or if the providing party has not completed a waiting period that is measured in a manner other than the passage of time, notify the employer, the enforcing agency and the parties; and

(f) Upon completion of the enrollment, notify the employer of the enrollment;

(6) If the plan administrator notifies the employer that the providing party is subject to a waiting period that expires more than 90 days after the date of receipt of the medical support notice by the plan administrator or that the providing party is subject to a waiting period that is measured in a manner other than the passage of time, the employer shall, when the providing party becomes eligible to enroll in the plan, notify the plan administrator that the medical support notice requires that the child named in the notice be enrolled in the plan; and

(7) The plan administrator shall enroll the child and, if necessary to the enrollment of the child, enroll the providing party in the plan as provided by rules adopted by the Department of Justice. [2003 c.637 §6; 2007 c.878 §9]

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

25.331 Obligation to withhold. (1) Upon notification from the plan administrator that the child is enrolled in the health benefit plan, the employer shall withhold from the providing party's compensation the providing party's share, if any, of premiums for the health benefit plan. The employer shall forward the amount withheld as required by the health benefit plan.

(2) The withholding required by a qualified medical child support order or a medical support notice is a continuing obligation. The qualified medical child support order or medical support notice and the withholding remain in effect and are binding upon the employer until further notice from the court or the enforcing agency.

(3)(a) An amount withheld by an employer in compliance with a withholding order issued for monetary support and a qualified medical child support order or medical support notice may not exceed 50 percent of the providing party's net disposable income.

(b) Notwithstanding paragraph (a) of this subsection, upon the motion of a party and after a hearing, the court may order the withholding of more than 50 percent of the providing party's net disposable income. However, the amount withheld may not exceed the amount allowed under section 303(b) of the federal Consumer Credit Protection Act (15 U.S.C. 1673(b)).

(4) If a providing party's compensation drops to a level at which withholding under this section exceeds the amount allowed under subsection (3) of this section, the employer shall stop the withholding and send the court or the enforcing agency, as the case may be, a written notice within 15 days of stopping the withholding. The notice shall include the providing party's name, address and Social Security number and the date the employer stopped withholding under this section.

(5) An employer is not subject to civil liability to an individual or agency for conduct or actions in compliance with a medical support notice if the employer:

(a) Is served with a medical support notice under ORS 25.327 that is regular on its face; and

(b) Complies with the provisions of the medical support notice if the notice appears to be in conformance with section 609 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169). [2003 c.637 §7; 2007 c.878 §10]

25.333 Contesting medical support notice. (1) When the enforcing agency issues a medical support notice under ORS 25.325, the enforcing agency shall notify the parties by regular mail to the last known addresses of the parties:

(a) That the notice has been sent to the providing party's employer; and

(b) Of the providing party's rights and duties under the notice.

(2) A providing party may contest a medical support notice within 30 days after the date the premium is first withheld pursuant to the notice or, if the health benefit plan is provided at no cost to the providing party, the date the first premium is paid by the employer.

(3) The only basis for contesting a medical support notice is a mistake of fact. A "mistake of fact" means any of the following:

(a) No order to provide health care coverage under a health benefit plan has been issued in regard to the providing party's child;

- (b) The amount to be withheld for premiums is greater than is permissible under ORS 25.331;
- (c) The alleged providing party is not the party from whom health care coverage is required; or
- (d) The providing party's income is equal to or less than Oregon minimum wage for full-time employment.

(4) The providing party may contest the medical support notice by requesting an administrative review. After receiving a request for review and within 45 days after the date the premium is first withheld pursuant to the medical support notice, the enforcing agency shall determine, based on an evaluation of the facts, whether the withholding for premiums may continue. The enforcing agency shall inform the parties of the determination in writing and include information regarding the right to appeal the determination.

(5) Any appeal of the enforcing agency's determination under subsection (4) of this section is to the circuit court for a hearing under ORS 183.484.

(6) The initiation of proceedings to contest a medical support notice or an appeal of the enforcing agency's determination under this section does not stay the withholding of premiums. [2003 c.637 §8; 2007 c.878 §11; 2009 c.351 §10; 2011 c.318 §9]

25.335 Termination of support order. When support enforcement services are being provided under ORS 25.080, the enforcing agency shall notify the employer when there is no longer in effect a support order requiring health care coverage for which the enforcing agency is responsible. However, termination of the health care coverage is governed by the health benefit plan's provisions for termination and by applicable federal law. [2003 c.637 §9]

25.337 Liability. (1) If the plan administrator or the employer fails to comply with the requirements described in ORS 25.329 or 25.331, the enforcing agency or obligee may bring a civil action against the plan administrator or employer for medical expenses, the providing party's share of the premiums, attorney fees and costs.

(2) An employer commits an unlawful employment practice if the employer discharges a providing party, refuses to hire a providing party or in any other manner discriminates, retaliates or takes disciplinary action against a providing party because of the entry of a medical support notice or qualified medical child support order or because of the obligations imposed upon the plan administrator by the order. An employee may bring a civil action under ORS 659A.885 or may file a complaint with the Commissioner of the Bureau of Labor and Industries in the manner provided by ORS 659A.820.

(3) A providing party who fails to maintain health care coverage for a child as ordered is liable, from the date of the order, for any medical expenses resulting from the failure to maintain coverage.

(4) The remedies described in this section are not exclusive. Nothing in this section precludes action by the court to enforce a judicial or administrative order requiring health care coverage or payment of medical support by imposition of remedial or punitive sanctions for contempt or otherwise. [2003 c.637 §10; 2007 c.878 §12]

25.339 Priority of medical support notice. A medical support notice issued under ORS 25.325 has priority over any previously filed attachment, execution, garnishment or assignment of income other than a withholding order issued for monetary support, unless otherwise requested by the obligee. [2003 c.637 §11]

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

25.341 Notice of termination of employer's relationship with providing party. When an employer is unable to continue withholding from a providing party's compensation because the relationship between the employer and the providing party ends, the employer shall send the enforcing agency a written notice within 15 days of the termination of the relationship. The notice must include the providing party's name, the providing party's last known address, the providing party's Social Security number, the date the relationship terminated and, if known, the name and address of a new employer of or other provider of a health benefit plan to the providing party. [2003 c.637 §12; 2007 c.878 §13]

25.342 Rules. The Department of Justice may adopt all rules necessary for implementation of ORS 25.321 to 25.343. [2009 c.351 §12]

25.343 Authorization for reimbursement payments. The signature of the obligee or guardian of a child covered by a health benefit plan is a valid authorization for purposes of processing an insurance reimbursement payment to the provider of the health services as provided in ORS 743.847. [2003 c.637 §13]

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 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; 2003 c.73 §28; 2003 c.572 §7]

25.375 Priority of withholding. Except as provided in ORS 25.339, withholding under ORS 25.378 has priority over any other legal process under Oregon law against the same income. [Formerly 25.722; 2003 c.637 §16]

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, an administrative law judge 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 or the administrator, 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 or the administrator.

(4) If an obligor is not otherwise subject to income withholding a court or the administrator may issue an order to withhold upon the ex parte motion of the obligor.

(5) Upon the request of the holder of support rights, a court or the administrator, 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.

(6) A court or the administrator 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 §§6,7; 2003 c.73 §§29,30; 2003 c.75 §25; 2013 c.184 §2]

25.381 Establishing income withholding as method of paying support; records. (1) Whenever services are being provided under ORS 25.080, support rights are not and have not at any time during the past five months been assigned to this or another state, and no arrearages under a support order are so assigned, the administrator shall provide, upon request of an obligor or obligee, services sufficient to permit establishment of income withholding under ORS 25.378, including services necessary to establish a support payment record under ORS 25.164 and 25.167.

(2) Regardless of whether services are being provided under ORS 25.080, the administrator shall provide, upon request of an obligor or obligee, services sufficient to permit establishment of income withholding under ORS 25.378:

(a) For the payment of child support 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.); and

(b) For the payment of spousal support if the obligee is receiving supplemental nutrition assistance or any other form of public assistance, as defined in ORS 411.010, from the Department of Human Services or medical assistance, as defined in ORS 414.025, from the department or the Oregon Health Authority. [Formerly 25.340; 2001 c.900 §8; 2003 c.73 §31; 2005 c.265 §1; 2009 c.599 §15; 2013 c.688 §7]

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]

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]

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) When a court or the administrator enters or modifies a support order, the court or administrator may grant an exception to income withholding required under ORS 25.378 if the court or administrator makes a written finding that there is good cause not to require income withholding. Good cause exists when there is proof of timely payment of previously ordered support and when initiating or continuing income withholding would not be in the best interests of the child.

(2) The court or administrator may grant an exception to income withholding required under ORS 25.378 if:

(a) The obligor and obligee at any time agree in writing to an alternative payment method;

(b) When money is owed to the state under the support order, the state agrees in writing to the alternative payment

method;

- (c) The obligor has paid in full all arrears accrued under the support order;
- (d) The obligor has complied with the terms of any previous exception granted under this section; and
- (e) The court or administrator accepts the alternative payment method.

(3) Notwithstanding subsection (1) of this section, when child support is currently assigned to the state and the child is in the custody of the Oregon Youth Authority or the Department of Human Services, the state or the obligor may request and the court or administrator may grant an exception from income withholding if:

(a) 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

(b) The state and the obligor agree in writing to an alternative payment method.

(4) Exceptions to income withholding described in this section may be granted by the administrator or the court, except that when support enforcement services are being provided under ORS 25.080 the only permissible alternative payment methods are an electronic funds transfer to the Department of Justice or another method permitted under rules adopted under this section.

(5) A party may appeal the administrator's decision granting or denying an exception under this section to the circuit court in accordance with ORS 183.484.

(6) Income withholding may be terminated only if the conditions set forth in this section are met.

(7) The Department of Justice shall adopt rules and establish procedures to implement this section. [Formerly 25.317; 2001 c.171 §1; 2003 c.73 §32; 2003 c.572 §8]

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 must 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 30 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; 2011 c.318 §10]

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 30 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;
- (b) Contesting the validity and enforcement of the order under ORS 110.401; or
- (c) Registering the underlying withholding order in Oregon in the manner provided by ORS 110.405 and seeking relief from enforcement of the order as provided in ORS 110.417 and 110.420.

(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 chapter 183 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; 2009 c.80 §2; 2011 c.318 §11]

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 the first pay period occurring five days after the date of the order to withhold. However, if on the date the employer receives the order the employer has already calculated the payroll for that pay period and has prepared the paycheck or submitted a deposit for that payroll, the employer shall start withholding no later than the second pay period occurring after the date 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, "business day" means a day on which the Department of Justice is open for regular business. [Formerly 25.355; 2007 c.356 §4]

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, if the order to withhold is issued for:

(A) Disability benefits payments from the United States Social Security Administration;

(B) Black lung benefits payments from the United States Department of Labor; or

(C) Disability benefits payments from the United States Department of Veterans Affairs.

(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. The entity issuing the order to withhold may convert the monthly support obligation amount to a percentage to be withheld from each benefits payment.

(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 obligation. The entity issuing the order to withhold may convert the last ordered monthly support obligation amount to a percentage to be withheld from each benefits payment.

(c) The withholder may not charge or collect a processing fee 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-half of the amount of the lump sum payment or benefit.

(5)(a) Notwithstanding any other provision of this section, when the withholding is only for arrearage, the administrator shall 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 or the obligor's ability to provide for the obligor's basic needs. The factors to be considered by the administrator in determining whether the obligor can provide for the obligor's basic needs include but are not limited to:

(A) The health expenses of the obligor;

(B) A verified disability affecting the obligor's ability to work;

(C) Whether the obligor's income remaining after withholding would be less than the self-support reserve established by rule of the Department of Justice under paragraph (c) of this subsection;

(D) The available resources of the obligor; and

(E) The number and basic needs of other persons in the obligor's household.

(b) The administrator shall establish a procedure to give advance and periodic notice to the obligor of the provisions of paragraph (a) of this subsection and of the means to reduce the amount stated in the order to withhold.

(c) The Department of Justice 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, the withholder shall pay to the department the income withheld and the department 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, 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 past due support is 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 18.385.

(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; 2003 c.73 §33; 2003 c.572 §9; 2011 c.317 §1]

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; action against withholder; penalty; attorney fees; unlawful employment

practice. (1) A person who is served with an order to withhold is not subject to civil liability to an individual or agency for conduct or actions in compliance with the order if:

- (a) The order is served on the person in the manner provided by ORS 25.402 (1);
- (b) The order is regular on its face; and
- (c) The order complies with ORS 25.402 (2).

(2) A person who is served with an order to withhold is liable to the obligee for:

- (a) All amounts that the person fails to withhold or pay as required by the order;
- (b) Any damages suffered by the obligee by reason of the failure of the person to withhold or pay as required by the order; and
- (c) Any damages suffered by the obligee by reason of the failure of the person to pay withheld amounts within the time specified by ORS 25.411.

(3) A person who is served with an order to withhold is liable to the obligor for:

- (a) All amounts withheld in excess of the amount required by the terms of the order;
- (b) Any damages suffered by the obligor by reason of withholding that is in excess of the amount required by the terms of the order;
- (c) Any damages suffered by the obligor by reason of the failure of the person to pay withheld amounts within the time specified by ORS 25.411; and
- (d) Any other damages suffered by the obligor by reason of the failure of the person to withhold or pay as required by the order.

(4) An obligee or obligor may bring an action to recover amounts under this section, or the Division of Child Support or a district attorney may bring an action on behalf of the obligee or obligor to recover amounts under this section.

(5) If the plaintiff in an action under this section establishes that the conduct of the defendant was willful or grossly negligent, the court shall:

(a) Enter judgment against the defendant for a penalty, payable to the court, not to exceed \$250 for each time the defendant failed to withhold or pay the amount required by the terms of the order to withhold, withheld an amount exceeding the amount required by the terms of the order, or failed to pay withheld amounts within the time specified by ORS 25.411; and

(b) Enter judgment against the defendant, payable to the plaintiff, for reasonable attorney fees incurred by the plaintiff.

(6)(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 under ORS 659A.885 or may file a complaint with the Commissioner of the Bureau of Labor and Industries in the manner provided by ORS 659A.820. 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.

(7) 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; 2003 c.572 §10; 2009 c.445 §1]

25.427 Rules. The Department of Justice shall make rules and take action as is necessary to carry out the purposes of ORS 25.372 to 25.427. [Formerly 25.365; 2003 c.73 §34]

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, the administrator may request the Department of Revenue, through the Department of Justice or its designee, to collect past due child and spousal support from income tax refunds due to the obligor. The request shall be based upon the payment record maintained under ORS 25.020.

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

(3) The Department of Justice shall adopt rules:

(a) Setting out additional criteria for requests under 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) Before a request is made to the Department of Revenue under subsection (1) of this section, the Department of Justice shall provide advance written notice to the obligor and the obligee of its intent to refer the case to the Department of Revenue. The notice shall inform the parties:

(a) Of the proposed action;

(b) Of the obligor's right to request an administrative review of the proposed action;

(c) That an administrative review, if desired, must be requested by the obligor within 30 days after the date of the notice; and

(d) That the only issues that may be considered in the administrative review are:

(A) Whether the obligor is the person who owes the support obligation; and

(B) Whether the amount shown as the past due support is correct.

(5) An administrative review must be requested within 30 days after the date of the notice described in subsection (4) of this section. At the administrative review, an issue may not 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 that resulted in the accrual of the arrearage being used as a basis for a request under subsection (1) of this section. A party may appeal a decision from the administrative review under ORS 183.484.

(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 may 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 Justice 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; 2003 c.73 §35; 2003 c.572 §11; 2005 c.560 §5; 2009 c.210 §1]

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 Justice 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 shall adopt rules to carry out the purposes of subsection (1) of this section. [1997 c.746 §13; 2003 c.73 §36]

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 192.583.

(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 192.583. [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 Justice 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 administrator by name and Social Security number or other taxpayer identification number.

(3) The administrator 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 administrator 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 administrator; or

(c) For any other action taken in good faith to comply with the requirements of this section. [1997 c.746 §121; 2003 c.73 §37; 2009 c.80 §3]

Note: See note under 25.640.

25.646 Disclosure of financial records of customers by financial institutions; liability. (1) Upon request of the administrator 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 administrator 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 administrator shall provide to the financial institution a signed document in a form established by the Department of Justice certifying that:

(a) 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) The administrator 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 administrator 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 administrator 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 administrator concerning the method by which requests for financial records and responses from the financial institution shall be made.

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

(7) The administrator 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; 2009 c.80 §4]

Note: See note under 25.640.

CONSUMER REPORTING AGENCIES

25.650 Information on past due support to consumer reporting agencies; rules. (1) As used in this section, “consumer reporting agency” means any person that, for monetary fees or 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 that uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(2)(a) Notwithstanding any other law, and subject to rules established by the Department of Justice, for cases in which there is past due support, the department 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 shall provide advance notice to both the obligor and the obligee concerning the proposed reporting of information to the consumer reporting agencies. The notice must inform both parties:

(A) Of the amount of the past due support the department will report to the consumer reporting agencies;

(B) That the department will continue to report the past due support amount owed without sending additional notice to the parties;

(C) Of the obligor's right to request an administrative review within 30 days after the date of the notice; and

(D) Of the issues that may be considered on review.

(c) If an obligor requests an administrative review, the department may not report the past due support amount until the review is complete.

(d) A party may appeal a decision from the administrative review under ORS 183.484. An appeal of the decision does not stay the department from making reports to consumer reporting agencies.

(3)(a) If paternity has been established and a consumer report is needed for the purpose of establishing or modifying a child support order, the administrator 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 administrator shall notify the obligor or obligee whose report is requested, by certified or registered mail, that the report will be requested.

(4) The department shall report information under subsection (2) of this section only to a person that has furnished evidence satisfactory to the department that the person is a consumer reporting agency.

(5) When the department has made a report to a consumer reporting agency under subsection (2) of this section, the department shall promptly notify the consumer reporting agency when the department'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; 2003 c.73 §38; 2005 c.560 §6]

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 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, or by any other mail service with delivery confirmation, sent to the owner's last-known address.

(b) A copy of the notice must 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 must 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; 2003 c.576 §577; 2011 c.318 §12]

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 that is the subject of the lien until the Department of Justice or person to whom the support is or was owed or, if services are being provided under ORS 25.080, the enforcing agency of this or any other state releases the lien, the lien has been

satisfied or a court has ordered release of the lien on the basis that no debt exists or that the debt has been satisfied. The limitations of this subsection do 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; 2003 c.73 §39]

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 or ORS chapter 18 or in any other manner permitted under law. [1985 c.671 §49; 1999 c.80 §36; 2003 c.576 §577a]

25.700 [1993 c.763 §§2,4; repealed by 2003 c.576 §580]

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 Justice 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 the state or any other state.

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

(a) Public assistance; or

(b) Care, support or services under ORS 418.015. [1985 c.671 §51a; 2003 c.73 §40; 2003 c.572 §12; 2003 c.576 §301]

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 deposit that is 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; 2011 c.597 §40]

25.720 When support assignable. (1) Except as provided in ORS 25.125, 412.024, 418.032, 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 for whom a fiduciary has been appointed under ORS chapter 125 or for whom a trust has been established.

(3) A person may not 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; 2003 c.131 §1]

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

25.725 Child Support Deposit Fund. (1) The Child Support Deposit Fund is established in the State Treasury separate and distinct from the General Fund. Interest earned by the Child Support Deposit Fund shall be credited to the fund. All moneys in the Child Support Deposit Fund are appropriated continuously for use by the Department of Justice as the state disbursement unit.

(2) All moneys received by the department under ORS 25.020 and 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 Deposit Fund. The Child Support Deposit Fund is not subject to the provisions of ORS 291.234 to 291.260. [1995 c.262 §2; 1997 c.704 §36; 2003 c.73 §41]

25.727 Garnishing income of person required to provide health insurance for child eligible under Medicaid. (1) The Department of Justice, 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, 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; 2003 c.73 §42]

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 Justice, 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 in arrears under any child support judgment or order, in an amount equal to the greater of three months of support or \$2,500, 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 Justice 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; 2003 c.73 §43; 2009 c.209 §1]

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, final four digits of the Social Security number, if available, year 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 Justice, 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; 2003 c.73 §44; 2011 c.318 §14; 2013 c.184 §3]

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 Justice. 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; 2003 c.73 §45]

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 object to the determination described in subsection (1) of this section within 30 days after the date of the determination. Any hearing on the objection shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings. Any suspension is stayed pending the decision of the administrative law judge. Any order of the administrative law judge that supports a suspension shall result in the notification to the issuing entity by the administrator to suspend the license, certificate, permit or registration 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 §§43,44; 2001 c.323 §§4,5; 2003 c.75 §26; 2005 c.560 §7]

25.768 Judicial review of order. The order of the administrative law judge 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; 2003 c.75 §76]

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. (1) Any state agency, board or commission that is authorized to issue an occupational, professional, recreational or driver license, certificate, permit or registration subject to suspension under 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, certificate, permit or registration and to the maximum extent feasible

shall include the Social Security number in automated databases containing information about the individual.

(2) A state agency, board or commission described in subsection (1) of this section may accept a written statement from an individual who has not been issued a Social Security number by the United States Social Security Administration to fulfill the requirement in subsection (1) of this section.

(3) An individual may not submit to a state agency, board or commission a written statement described in subsection (2) of this section knowing the statement to be false. [1997 c.746 §117; 1999 c.80 §93; 2003 c.610 §1; 2005 c.22 §17]

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 Justice.

(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 60 days. [1993 c.753 §1; 1995 c.381 §2; 1999 c.80 §18; 2003 c.73 §46; 2013 c.184 §4]

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 administrator 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 Justice shall adopt rules to implement the provisions of this section. [1993 c.753 §3; 1999 c.80 §29; 2003 c.73 §47]

PENALTIES

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

(2) Violation of ORS 25.260 is a Class C misdemeanor.

(3) Violation of ORS 25.785 (3) is a Class A misdemeanor. [1985 c.671 §52(4); 1989 c.812 §3(2); 1999 c.1051 §147; 2003 c.610 §4; 2011 c.597 §151]

Chapter 416 — Recovery of Aid and Support

ORS sections in this chapter were amended or repealed by the Legislative Assembly during its 2014 regular session. See the table of ORS sections amended or repealed during the 2014 regular session: [2014 A&R Tables](#)

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416.990 Penalties

416.010 [1961 c.605 §2; 1969 c.597 §250; 1971 c.407 §1; 1995 c.79 §210; repealed by 2001 c.900 §261]

416.020 [Formerly 411.410; 1971 c.480 §3; 1971 c.779 §49; repealed by 2001 c.900 §261]

416.030 [Formerly 411.420; 1967 c.549 §7; 1971 c.125 §1; 1971 c.750 §5; 1999 c.59 §108; repealed by 2001 c.900 §261]

416.035 [1971 c.750 §2; repealed by 2001 c.900 §261]

416.040 [1961 c.605 §6; subsection (4) enacted as 1963 c.499 §8; repealed by 2001 c.900 §261]

416.050 [1961 c.605 §7; repealed by 2001 c.900 §261]

416.055 [1971 c.480 §2; repealed by 2001 c.900 §261]

416.060 [Formerly 411.425; repealed by 1971 c.651 §1 (416.061 enacted in lieu of 416.060)]

416.061 [1971 c.651 §2 (enacted in lieu of 416.060); repealed by 2001 c.900 §261]

416.070 [1961 c.605 §16; repealed by 2001 c.900 §261]

416.080 [Formerly 411.440 and then 411.428; repealed by 2001 c.900 §261]

416.090 [Formerly 411.450 and then 411.434; repealed by 2001 c.900 §261]

416.100 [Formerly 411.460 and then 411.438; repealed by 2001 c.900 §261]

416.110 [Formerly 411.441; 1979 c.562 §14; 1983 c.740 §141; repealed by 2001 c.900 §261]

416.120 [Formerly 411.442; subsection (4) enacted as 1961 c.605 §15; 1971 c.734 §46; 1999 c.849 §§75,76; repealed by 2001 c.900 §261]

416.130 [Formerly 411.444; repealed by 2001 c.900 §261]

416.140 [Formerly 411.446; repealed by 1971 c.734 §21]

416.145 [1971 c.734 §48; repealed by 2001 c.900 §261]

416.150 [1961 c.605 §13; repealed by 1971 c.734 §21]

416.160 [1961 c.605 §14; repealed by 1971 c.734 §21]

416.170 [Formerly 411.448; 1975 c.146 §5; 1983 c.696 §19; repealed by 2001 c.900 §261]

416.180 [Formerly 411.452; 1993 c.223 §10; repealed by 2001 c.900 §261]

416.190 [Formerly 411.454; repealed by 2001 c.900 §261]

416.200 [Formerly 411.456; repealed by 2001 c.900 §261]

416.210 [Formerly 411.458; repealed by 2001 c.900 §261]

416.220 [1961 c.605 §19; 1971 c.779 §50; repealed by 2001 c.900 §261]

416.230 [Formerly 411.462; 1971 c.407 §2; repealed by 1979 c.690 §19]

416.240 [Formerly 411.464; repealed by 2001 c.900 §261]

416.250 [Formerly 411.466; repealed by 2001 c.900 §261]

416.260 [Formerly 411.470; 1969 c.45 §2; 1971 c.418 §13; repealed by 2001 c.900 §261]

416.270 [Formerly 411.474; repealed by 2001 c.900 §261]

416.280 [Formerly part of 414.105; repealed by 2001 c.900 §261]

RECOVERY FROM ESTATES

416.310 Estate of deceased person liable for aid received; relatives not relieved from obligation of support. (1) Except as otherwise provided by ORS 411.708, the estate of every deceased person who received aid from the state or any county or whose burial expenses have been paid by the state or any county, other than aid received pursuant to ORS 412.006, 444.120 or 444.220, is liable for the actual cost of such aid so rendered or the actual expenses of such burial. The state or the county shall

have a just and valid claim against such estate therefor.

(2) Nothing in this section relieves the parents, children, brothers or sisters of any needy person from their obligation to support such person, or prevents the county court from recovering for such support.

(3) Nothing in this section authorizes the recovery of the amount of any aid from the estate or surviving spouse of a recipient to the extent that the need for aid resulted from a crime committed against the recipient. [Formerly 411.480; 1985 c.522 §5; 1993 c.249 §6; 2005 c.381 §25]

416.320 Manner of approval and payment of county claims against estate. All claims of the type mentioned in ORS 416.310 shall be itemized and verified by the county clerk and presented by the county clerk to the administrator or executor of the estate; except that the claims shall be verified by the county accountant in counties having a county accountant authorized by ORS chapter 210. The claims shall be approved and paid by the administrator or executor in the manner and in the order of preference provided by law for approval and payment of claims and charges against estates of deceased persons. [Formerly 411.490; 1983 c.310 §19]

416.330 [Formerly 411.500; repealed by 1983 c.537 §7]

416.340 Collection of claim against estate of deceased; waiver of claim. (1) With respect to any claim against the estate of a deceased person, the Department of Human Services and the Oregon Health Authority may:

(a) Secure payment of the claim in whole or in part by the acceptance of assignments, conveyances, notes, mortgages and other transfers of property or interests therein.

(b) Waive the claim to the extent that the department or the authority finds that enforcement would tend to defeat the purpose of the public assistance or medical assistance laws.

(2) To the extent that the need for aid resulted from a crime committed against the recipient, a claim for recovery of the amount of such aid defeats the purpose of the public assistance or medical assistance laws. [1963 c.114 §2; 1985 c.522 §6; 2011 c.720 §153; 2013 c.688 §86]

416.350 Recovery of medical assistance; estate claims; transfer of assets. (1) The Department of Human Services or the Oregon Health Authority may recover from any person the amounts of medical assistance the department or the authority incorrectly paid to or on behalf of the person.

(2) Medical assistance pursuant to ORS chapter 414 paid to or on behalf of an individual who was 55 years of age or older when the individual received the assistance, or paid to or on behalf of a person of any age who was a permanently institutionalized inpatient in a nursing facility, intermediate care facility for persons with intellectual disabilities or other medical institution, may be recovered from the estate of the individual or from any recipient of property or other assets held by the individual at the time of death including the estate of the surviving spouse. Claim for such medical assistance correctly paid to or on behalf of the individual may be established against the estate, but the claim may not be adjusted or recovered until after the death of the surviving spouse, if any, and only at a time when the individual has no surviving child who is under 21 years of age or who is blind or permanently and totally disabled. Transfers of real or personal property by recipients of such aid without adequate consideration are voidable and may be set aside under ORS 411.620 (2).

(3) Nothing in this section authorizes the recovery of the amount of any aid from the estate or surviving spouse of a recipient to the extent that the need for aid resulted from a crime committed against the recipient.

(4) In any action or proceeding under this section to recover medical assistance paid, it is the legal burden of the person who receives the property or other assets from a medical assistance recipient to establish the extent and value of the recipient's legal title or interest in the property or assets in accordance with rules established by the authority.

(5) Amounts recovered under this section do not include the value of benefits paid to or on behalf of a beneficiary under a policy or certificate of qualified long term care insurance as defined in ORS 743.652, that were disregarded in determining eligibility for or the amount of medical assistance provided to the beneficiary.

(6) As used in this section:

(a) "Estate" includes all real and personal property and other assets in which the deceased individual had any legal title or interest at the time of death including assets conveyed to a survivor, heir or assign of the deceased individual through joint tenancy, tenancy in common, survivorship, life estate, living trust or other similar arrangement.

(b) "Medical assistance" includes the state's monthly contribution to the federal government to defray the costs of outpatient prescription drug coverage provided to a person who is eligible for Medicare Part D prescription drug coverage and who receives medical assistance. [Formerly 414.105; 2011 c.720 §154; 2013 c.688 §87]

416.351 Possible limitation on recovery of certain medical assistance; federal law. (1) Subject to the requirements of subsection (2) of this section, if 42 U.S.C. 1396p (b)(1)(B) as in effect on January 1, 1995, is repealed without replacement or is declared unconstitutional, the Director of the Oregon Health Authority shall limit the recovery of medical assistance paid pursuant to ORS chapter 414 from the estate of an individual or a recipient of property or other assets held by an individual at the time of death, including a surviving spouse of the individual, to the recovery of medical assistance payments paid on behalf of the individual on or after the date that the individual attained 65 years of age.

(2) The director shall limit the recovery of medical assistance as described under subsection (1) of this section only if the

director determines, after receiving the written opinion of the Attorney General, that the recovery limitation will not violate any federal law in effect on the operative date of the recovery limitation. The director may condition, limit, modify or terminate any recovery limitation as the director considers necessary to avoid a violation of federal law. [Formerly 414.106]

PARENTAL SUPPORT OF DEPENDENT CHILDREN

Note: Definitions in 25.010 and 25.011 relating to support payments or support enforcement procedures apply to ORS chapter 416.

416.400 Definitions for ORS 416.400 to 416.465. As used in ORS 416.400 to 416.465, unless the context requires otherwise:

- (1) “Administrator” has the meaning given that term in ORS 25.010.
- (2) “Court” means any circuit court of this state and any court in another state having jurisdiction to determine the liability of persons for the support of another person.
- (3) “Court order” means any judgment or order of any Oregon court that orders payment of a set or determinable amount of support money by the subject parent and does not include an order or judgment in any proceeding in which the court did not order support.
- (4) “Department” means the Department of Justice of this state or its equivalent in any other state from which a written request for establishment or enforcement of a support obligation is received under ORS 416.415.
- (5) “Dependent child” means any person under the age of 18 who is not otherwise emancipated, self-supporting, married or a member of the Armed Forces of the United States. “Dependent child” also means a child attending school as defined in ORS 107.108.
- (6) “Office” means the office of the Division of Child Support or the office of the district attorney.
- (7) “Parent” means the natural or adoptive father or mother of a dependent child or youth offender. “Parent” also means stepparent when the person has an obligation to support a dependent child under ORS 108.045.
- (8) “Past support” means the amount of child support that could have been ordered and accumulated as arrears against a parent for the benefit of a child for any period of time during which the child was not supported by the parent and for which period no support order was in effect.
- (9) “Public assistance” means any money payments made by the state that are paid to or for the benefit of any dependent child or youth offender, including but not limited to payments made so that food, shelter, medical care, clothing, transportation or other necessary goods, services or items may be provided, and payments made in compensation for the provision of the necessities. “Public assistance” does not include money payments made by the state to or for the benefit of a dependent child as the result of the child’s removal from the parent’s home against the wishes of the parent, if the Department of Human Services determines after completion of a child protective services assessment that the report of abuse is unfounded according to rules adopted by the Department of Human Services.
- (10) “Youth offender” has the meaning given that term in ORS 419A.004. [1979 c.421 §1; 1985 c.567 §1; 1985 c.671 §30; 1987 c.161 §1; 1989 c.519 §3; 1989 c.812 §11; 1995 c.343 §43; 1995 c.422 §131v; 1995 c.514 §8; 1997 c.704 §59; 1999 c.735 §20; 2001 c.455 §21; 2003 c.73 §61; 2003 c.576 §443; 2007 c.643 §1]

416.405 Policy. It is the public policy of this state that dependent children shall be maintained, as much as possible, from the resources of both of the parents, thereby relieving or avoiding, at least in part, the burden often borne by single parents or by the general citizenry through public assistance programs. The existing remedies pertaining to family desertion and nonsupport of dependent children are to be augmented by the additional remedies provided in ORS 416.400 to 416.465 which are directed to the real and personal property resources of the responsible parents. These additional remedies are not in lieu of existing law. ORS 416.400 to 416.465 shall be liberally construed and administered to implement the policy stated in this section. [1979 c.421 §2; 1985 c.671 §31]

416.407 Parties to support proceedings; notice. (1) In any proceeding under ORS 416.400 to 416.465, the following are parties and shall be given notice of any such proceeding by the administrator:

- (a) The State of Oregon.
 - (b) An obligee who has physical custody of a child for whose benefit a support order or an order establishing paternity is sought, is being modified or is being enforced under this chapter.
 - (c) A noncustodial parent or a male who is alleged to be the father of a child when an action is initiated under this chapter to establish, modify or enforce a support or paternity order.
 - (d) A person joined as a party under subsection (2) of this section.
- (2) Pursuant to administrative rule, a party may join a person who has physical custody of a child to a proceeding under ORS 416.400 to 416.465. [1993 c.596 §31; 1999 c.836 §2; 2005 c.560 §9]

416.410 [1979 c.421 §3; 1985 c.671 §32; 1991 c.520 §4; repealed by 1995 c.514 §14]

416.415 Notice and finding of financial responsibility; request for hearing; order. (1)(a) At any time after the state is

assigned support rights, a public assistance payment is made, an application for enforcement services under ORS 25.080 is made by an individual who is not a recipient of public assistance or a written request for enforcement of a support obligation is received from the state agency of another state responsible for administering the federal child support enforcement program, the administrator may, if there is no court order or administrative support order, issue a notice and finding of financial responsibility. The notice shall be served upon the parent in the manner prescribed for service of summons in a civil action, by certified mail, return receipt requested, or by any other mail service with delivery confirmation. Notices that involve the establishment of paternity must be served by personal service. All notices may be personally served by the administrator.

(b) The administrator shall serve the notice and finding issued under this section upon the obligee. Service shall be by regular mail.

(2) The administrator shall include in the notice:

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

(b) A statement of the monthly support for which the parent shall be responsible;

(c) A statement of the past support for which the parent shall be responsible;

(d) A statement that the parent may be required to provide health care coverage for the dependent child whenever the coverage is available to the parent at a reasonable cost;

(e) To the extent known, a statement of:

(A) Whether there is pending in this state or any other jurisdiction any type of support proceeding involving the dependent child, including a proceeding brought under ORS 25.287, 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, 125.025, 416.425, 419B.400 or 419C.590 or ORS chapter 110; and

(B) Whether there exists in this state or any other jurisdiction a support order, as defined in ORS 110.303, involving the dependent child;

(f) A statement that if the parent or the obligee desires to discuss the amount of support or health care coverage that the parent is required to pay or provide, the parent or the obligee may contact the office that sent the notice and request a negotiation conference. If no agreement is reached on the monthly support to be paid, the administrator may issue a new notice and finding of financial responsibility, which may be sent to the parent and to the obligee by regular mail addressed to the parent's and to the obligee's last-known address, or if applicable, the parent's or the obligee's attorney's last-known address;

(g) A statement that if the parent or the obligee objects to all or any part of the notice and finding of financial responsibility, then the parent or the obligee must send to the office issuing the notice, within 30 days of the date of service, a written response that sets forth any objections and requests a hearing;

(h) A statement that if such a timely response is received by the appropriate office, either the parent or the obligee or both shall have the right to a hearing; and that if no timely written response is received, the administrator may enter an order in accordance with the notice and finding of financial responsibility;

(i) A statement that as soon as the order is entered, the property of the parent is subject to collection action, including but not limited to wage withholding, garnishment and liens and execution thereon;

(j) A reference to ORS 416.400 to 416.465;

(k) A statement that both the parent and the obligee are responsible for notifying the office of any change of address or employment;

(L) A statement that if the parent has any questions, the parent should telephone or visit the appropriate office or consult an attorney; and

(m) Such other information as the administrator finds appropriate.

(3) If the paternity of the dependent child has not been legally established, the notice and finding of financial responsibility shall also include:

(a) An allegation that the person is the parent of the dependent child;

(b) The name of the child's other parent;

(c) The child's date of birth;

(d) The probable time or period of time during which conception took place; and

(e) A statement that if the alleged parent or the obligee does not timely send to the office issuing the notice a written response that denies paternity and requests a hearing, then the administrator, without further notice to the alleged parent, or to the obligee, may enter an order that declares and establishes the alleged parent as the legal parent of the child.

(4) The statement of monthly future support required under subsection (2)(b) and the statement of past support required under subsection (2)(c) of this section are to be computed as follows:

(a) If there is sufficient information available concerning the parent's financial and living situation, the formula provided for in ORS 25.275 and 25.280 shall be used; or

(b) If there is insufficient information available to use the formula, an allegation of ability to pay shall be the basis of the statement.

(5) The parent or alleged parent and the obligee shall have time to request a hearing as outlined in subsection (2)(g) of this section. The time limits may be extended by the administrator and are nonjurisdictional.

(6) If a timely written response setting forth objections and requesting a hearing is received by the appropriate office, a hearing shall be held under ORS 416.427.

(7) If no timely written response and request for hearing is received by the appropriate office, the administrator may enter an

order in accordance with the notice, and shall include in that order:

- (a) If the paternity of the dependent child is established by the order, a declaration of that fact;
- (b) The amount of monthly support to be paid, with directions on the manner of payment;
- (c) The amount of past support to be ordered against the parent;
- (d) Whether health care coverage is to be provided for the dependent child;
- (e) The name of the caretaker relative or agency and the name and birthdate of the dependent child for whom support is to be paid; and
- (f) A statement that the property of the parent is subject to collection action, including but not limited to wage withholding, garnishment and liens and execution thereon.

(8) The parent and the obligee shall be sent a copy of the order by regular mail addressed to the last-known address of each of the parties or if applicable, to the last-known address of an attorney of record for a party. The order is final, and action by the administrator to enforce and collect upon the order, including arrearages, may be taken from the date of issuance of the order.

(9) The provisions of ORS 107.108 apply to an order entered under this section for the support of a child attending school. [1979 c.421 §4; 1985 c.671 §33; 1989 c.566 §1; 1989 c.811 §7; 1993 c.596 §32; 1995 c.514 §9; 1997 c.704 §62; 2003 c.73 §62; 2003 c.116 §12; 2005 c.560 §10; 2009 c.80 §6; 2011 c.318 §3]

416.416 Modification of order based on change in physical custody. (1) An order for support of a child entered under ORS 416.400 to 416.465 may provide for a change to the support award based on a change in the child's physical custody. The order may provide for a change in the support award during periods of time when one parent, with the knowledge and consent of the other parent or pursuant to court order, has physical custody of the child. The provision may not provide for a change to the support award during periods of parenting time or visitation.

(2) A sworn affidavit of the parent having physical custody of a child is sufficient to establish a change in physical custody of the child, and of the time during which the parent has physical custody of the child, for the purposes of a change to a support award under a provision described in subsection (1) of this section. The other parent may contest the affidavit by requesting a hearing as provided by ORS 416.427.

(3) The legal custody of a child is not affected by a change to a support order under a provision described in subsection (1) of this section. [2009 c.353 §2]

416.417 When order of support contingent on child residing in state financed or supported residence. An order for support entered pursuant to ORS 416.400 to 416.465 for a child in the care and custody of the Department of Human Services, or a youth offender or other offender in the legal or physical custody of the Oregon Youth Authority, may be made contingent upon the child, youth offender or other offender residing in a state financed or supported residence, shelter or other facility or institution. A certificate signed by the Director of Human Services, the Administrator of the Division of Child Support or the Director of the Oregon Youth Authority shall be sufficient to establish the periods of residence and to satisfy the order for periods of nonresidence. A hearing to contest the period of nonresidency or failure to satisfy shall be held pursuant to ORS 416.427. [1985 c.610 §8; 1989 c.519 §4; 1995 c.422 §131w; 1999 c.213 §3; 2005 c.560 §11]

416.419 Tribunals for establishment of paternity or for child support order. (1) Except as otherwise provided in subsection (2) of this section, the administrator may act as the tribunal described in ORS 110.304 in the establishment of paternity or of a child support order, or in the modification or enforcement of a child support order.

(2)(a) When a hearing is requested pursuant to ORS 416.427, the tribunal is the Office of Administrative Hearings, except as provided in ORS 416.430.

(b) When an order is appealed pursuant to ORS 416.427 (6), the tribunal is a circuit court. [1995 c.608 §15; 1997 c.704 §45; 1999 c.680 §4; 2005 c.560 §12]

416.420 [1979 c.421 §8; repealed by 1989 c.811 §10]

416.422 Past support; consolidation in court proceeding. (1) Past support may not be ordered for any period of time prior to the later of:

(a) The date of the most recent application for service from the Child Support Program administered under Title IV-D of the Social Security Act; or

(b) In the case of a mandatory referral based on the receipt of public assistance, the date of the last referral to the Child Support Program administered under Title IV-D of the Social Security Act.

(2) If the administrator has issued a notice and finding of financial responsibility under ORS 416.415 that includes a statement of past support but the administrator or an administrative law judge has not issued an order, and a court proceeding that involves the same obligor and child support for the same child is pending or is commenced after the notice is issued, the administrator may certify all matters under the notice to the court for consolidation in the court proceeding. After the matter is certified to the court, the court may, in the same manner as the administrator, order a parent to pay an amount of past support.

(3) If the administrator does not certify the matter to the court under subsection (2) of this section and the court's judgment or order does not address past support, the administrator or an administrative law judge may thereafter issue an order directing a parent to pay an amount of past support. [1995 c.514 §16; 2003 c.146 §9; 2003 c.576 §207; 2007 c.71 §106]

416.425 Motions to modify financial responsibility orders; service; temporary suspension of order during period of significant unemployment. (1) Any time support enforcement services are being provided under ORS 25.080, the obligor, the obligee, the party holding the support rights or the administrator may move for the existing order to be modified under this section. The motion shall be in writing in a form prescribed by the administrator, shall set out the reasons for modification and shall state the address of the party requesting modification.

(2) The moving party shall state in the motion, to the extent known:

(a) Whether there is pending in this state or any other jurisdiction any type of support proceeding involving the dependent child, including a proceeding brought under ORS 25.287, 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, 125.025, 416.415, 419B.400 or 419C.590 or ORS chapter 110; and

(b) Whether there exists in this state or any other jurisdiction a support order, as defined in ORS 110.303, involving the dependent child, other than the order the party is moving to modify.

(3) The moving party shall include with the motion a certificate regarding any pending support proceeding and any existing support order other than the order the party is moving to modify. The party shall use a certificate that is in a form prescribed by the administrator and include information required by the administrator and subsection (2) of this section.

(4) The moving party shall serve the motion upon the obligor, the obligee, the party holding the support rights and the administrator, as appropriate. The nonrequesting parties must be served in the same manner as provided for service of the notice and finding of financial responsibility under ORS 416.415 (1)(a). Notwithstanding ORS 25.085, the requesting party must be served by first class mail to the requesting party's last known address. The nonrequesting parties have 30 days to resolve the matter by stipulated agreement or to serve the moving party by regular mail with a written response setting forth any objections to the motion and a request for hearing. The hearing shall be conducted under ORS 416.427.

(5) When the moving party is other than the administrator and no objections and request for hearing have been served within 30 days, the moving party may submit a true copy of the motion to the administrative law judge as provided in ORS 416.427, except the default may not be construed to be a contested case as defined in ORS chapter 183. Upon proof of service, the administrative law judge shall issue an order granting the relief sought.

(6) When the moving party is the administrator and no objections and request for hearing have been served within 30 days, the administrator may enter an order granting the relief sought.

(7) A motion for modification made under this section does not stay the administrator from enforcing and collecting upon the existing order unless so ordered by the court in which the order is entered.

(8) An administrative order filed in accordance with ORS 416.440 is a final judgment as to any installment or payment of money that has accrued up to the time the nonrequesting party is served with a motion to set aside, alter or modify the judgment. The administrator may not set aside, alter or modify any portion of the judgment that provides for any payment of money for minor children that has accrued before the motion is served. However:

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

(b) The administrator may allow a credit against child support arrearages for any Social Security or veterans' benefits paid retroactively 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.

(9) The party requesting modification has the burden of showing a substantial change of circumstances or that a modification is appropriate under the provisions of ORS 25.287.

(10) The obligee is a party to all proceedings under this section.

(11) An order entered under this section that modifies a support order because of the incarceration of the obligor is effective only during the period of the obligor's incarceration and for 60 days after the obligor's release from incarceration. The previous support order is reinstated by operation of law on the 61st day after the obligor's release from incarceration. An order that modifies a support order because of the obligor's incarceration must contain a notice that the previous order will be reinstated on the 61st day after the obligor's release from incarceration.

(12)(a) Notwithstanding subsections (1) to (11) of this section, any time support enforcement services are being provided under ORS 25.080, upon request of a party to a support order or judgment or on the administrator's own motion, the administrator may move to suspend the order or judgment and issue a temporary modification order under this subsection when:

(A) There is a period of significant unemployment as that term is described in paragraph (b) of this subsection; and

(B) A party to the support order or judgment experiences an employment-related change of income as defined by rule in ORS 416.455.

(b) Proceedings under this subsection may be initiated only when there is a period of significant unemployment in Oregon. The Attorney General shall determine when a "period of significant unemployment" exists in Oregon and designate the beginning and ending dates thereof. In making the determination of when a period of significant unemployment exists in Oregon, the Attorney General may consider whether there is in effect an "extended benefit period" as that term is defined in ORS 657.321.

(c) Except as otherwise provided in this subsection, the provisions of subsections (1) to (11) of this section apply to a motion for an order of suspension and temporary modification under this subsection.

(d) A party's employment-related change of income during a period of significant unemployment is considered a substantial

change of circumstances for purposes of proceedings brought under this section.

(e) The motion for an order of suspension and temporary modification must be in writing and must include, but need not be limited to:

(A) The amount of the existing support order or judgment;

(B) The amount of the obligor's and obligee's income immediately preceding the party's employment-related change of income, if known;

(C) The reason for the party's employment-related change of income;

(D) How the party's employment-related change of income affects the party's employment status, income and, if applicable, ability to pay support;

(E) The obligor's and the obligee's current sources of income, if known;

(F) The proposed amount of the temporary modification order;

(G) A statement that if a party objects to the motion for an order of suspension and temporary modification, then the party may request a hearing within 14 days of service of the motion as provided in paragraph (g) of this subsection;

(H) A statement that the preexisting support order or judgment will be reinstated as provided in paragraph (h) of this subsection; and

(I) A statement that a party may request a renewal of the order of suspension and temporary modification prior to its expiration as provided in paragraph (j) of this subsection.

(f) The administrator shall serve the motion filed under this subsection upon the parties by regular first class mail, facsimile or electronic mail unless a party signs a form agreeing to accept service of the motion.

(g) A party may request a hearing within 14 days of service of the motion. If a hearing is requested, the provisions of ORS 416.427 apply. When there has been no request for hearing, the administrator may enter an order of suspension and temporary modification under this subsection. The order must be consistent with the provisions of the motion filed under this subsection and be in substantial compliance with the formula established under ORS 25.275.

(h) An order of suspension and temporary modification issued under this subsection is temporary and remains in effect for six months from the date the order is filed under ORS 416.440 or until the date specified in the notice provided under paragraph (i) of this subsection informing of the party's reemployment, whichever is earlier, at which time the preexisting support order or judgment becomes immediately effective and payable on the first day of the following month unless an order of renewal is issued under paragraph (j) of this subsection.

(i) The administrator may issue a notice of reinstatement at any time during which an order of suspension and temporary modification is in effect under this subsection when a party obtains employment and receives income that is sufficient to reinstate support in an amount substantially similar to the amount in the preexisting support order or judgment. The notice shall be served as provided in paragraph (f) of this subsection and must state that, unless a request for hearing is received within 14 days of service of the notice, the administrator will enter an order terminating the order of suspension and temporary modification and reinstating the amount of the preexisting support order or judgment effective on a date to be specified in the notice. If a hearing is requested, the provisions of ORS 416.427 apply. When there is no request for hearing, the administrator may enter an order terminating the order of suspension and temporary modification and reinstating the preexisting support order or judgment effective upon the date specified in the notice.

(j) Prior to expiration of an order of suspension and temporary modification under this subsection and upon request of a party, the administrator may renew the order of suspension and temporary modification for additional six-month periods or until the party obtains employment as described in paragraph (i) of this subsection, whichever occurs first, if the circumstances under which the order was originally issued continue to exist unchanged. [1979 c.421 §5; 1985 c.671 §37; 1989 c.566 §2; 1991 c.519 §4; 1993 c.596 §33; 1995 c.609 §1; 1999 c.127 §1; 1999 c.836 §1; 2003 c.75 §88; 2003 c.116 §13; 2003 c.419 §4; 2003 c.572 §16b; 2003 c.576 §208a; 2005 c.560 §13; 2009 c.80 §8; 2013 c.183 §1; 2013 c.184 §1]

416.427 Hearings procedure; parties; enforcement of order; appeal of order. (1) When a party requests a hearing pursuant to ORS 416.415, 416.416, 416.417, 416.425 (1) or 416.429, the contested case provisions of ORS chapter 183 apply except as provided in subsection (6) of this section.

(2) Except as provided in ORS 416.430, hearings shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings.

(3) The administrative law judge may issue subpoenas for witnesses necessary to develop a full record. The attorney of record for the office of the Division of Child Support or the office of the district attorney may issue subpoenas. Witnesses appearing pursuant to subpoena, other than parties or officers or employees of the administrator, shall receive fees and mileage as prescribed by law for witnesses in ORS 44.415 (2). Obedience to the subpoena may be compelled in the same manner as set out in ORS 183.440 (2).

(4) Upon issuance of an order, action by the administrator to enforce and collect upon the order, including arrearages, may be taken. Action by the administrator may not be stayed or partially stayed pending appeal or by any court unless there is substantial evidence showing that the obligor would be irreparably harmed and that the obligee would not be irreparably harmed.

(5) An order issued by the administrative law judge or the administrator is final. The order shall be in full force and effect while any appeal is pending unless the order is stayed by a court. A court may not grant a stay unless there is substantial evidence showing the obligor would be irreparably harmed and that the obligee would not be irreparably harmed.

(6) Appeal of the order of the administrative law judge or any default or consent order entered by the administrator pursuant to ORS 416.400 to 416.465 may be taken to the circuit court of the county in which the order has been entered pursuant to ORS 416.440 for a hearing de novo. The appeal shall be by petition for review filed within 60 days after the order has been entered pursuant to ORS 416.440. Unless otherwise specifically provided by law, the appeal shall be conducted pursuant to the Oregon Rules of Civil Procedure.

(7) The obligor, the obligee and the state are parties to any proceedings, including appeals, under this section. [1985 c.671 §35; 1989 c.566 §3; 1989 c.980 §13a; 1993 c.596 §34; 1995 c.608 §6; 1999 c.849 §§78,79; 2003 c.75 §34; 2003 c.576 §§209,210; 2005 c.560 §14; 2009 c.353 §3]

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

(2) The notice shall include:

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

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

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

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

(e) A statement that if full payment or an objection is not received within 30 days, the administrator will enter an order directing that the amount of the arrearages stated in the notice be entered in the child support accounting record maintained by the Department of Justice;

(f) A statement that if the obligor or the obligee objects to the enforcement of the arrearages, then the objecting party must send to the office issuing the notice, within 30 days of the date of service, a written response that sets forth any objections and requests a hearing;

(g) A statement that the only basis upon which an obligor or an obligee may object to the enforcement of the arrearages is that the amount of the arrearages specified in the notice is incorrect;

(h) A reference to ORS 416.400 to 416.465;

(i) A statement that the obligor and the obligee are responsible for notifying the office of any change of address or employment;

(j) A statement that if the obligor or the obligee has any questions, the obligor or obligee should telephone or visit the appropriate office or consult an attorney; and

(k) Such other information as the administrator finds appropriate.

(3) If a timely written response setting forth objections and requesting a hearing is received by the appropriate office, a hearing shall be held under ORS 416.427.

(4) If no timely written response and request for hearing is received by the appropriate office, the administrator shall enter an order directing that the amount of the arrearages stated in the notice be entered in the child support accounting record maintained by the Department of Justice.

(5) Action to administratively enforce and collect upon the arrearages established under this section may be taken 30 days after service of or receipt or refusal of the notice by the obligor or obligee.

(6) Nothing in this section shall prevent the administrator from using other available enforcement remedies at any time. [1985 c.671 §36; 1991 c.520 §1; 1993 c.596 §35; 1995 c.608 §18; 1999 c.93 §1; 1999 c.735 §21; 2003 c.576 §211; 2011 c.318 §4]

416.430 Establishing paternity of child; certification of paternity issue to circuit court. (1) The administrator may establish paternity of a child in the course of a support proceeding under ORS 416.400 to 416.465 when both parents sign statements that paternity has not been legally established and that the male parent is the father of the child. The administrator may enter an order which establishes paternity.

(2) If the parent fails to file a response denying paternity and requesting a hearing within the time period allowed in ORS 416.415 (2), then the administrator, without further notice to the parent, may enter an order, in accordance with ORS 416.415 (7), which declares and establishes the parent as the legal father of the child.

(3) Any order entered pursuant to subsection (1) or (2) of this section establishes legal paternity for all purposes. The Center for Health Statistics of the Oregon Health Authority shall amend the record of live birth for the child and issue a new certified copy of the record of live birth in the new name, if any, of the child. The original record of live birth shall be sealed and filed and may be opened only upon order of a court of competent jurisdiction.

(4)(a) If paternity is alleged under ORS 416.415 (3) and a written response denying paternity and requesting a hearing is received within the time period allowed in ORS 416.415 (2), or if the administrator determines that there is a valid issue with respect to paternity of the child, the administrator, subject to the provisions of subsections (5) and (6) of this section, shall certify the matter to the circuit court for a determination based upon the contents of the file and any evidence which may be

produced at trial. The proceedings in court shall for all purposes be deemed suits in equity. The provisions of ORS 109.145 to 109.230 apply to proceedings certified to court by the administrator pursuant to this section.

(b) Any response denying paternity and requesting a hearing shall be sent by the enforcement office to the obligee by regular mail.

(5) An action to establish paternity initiated under ORS 416.400 to 416.465 shall not be certified to court for trial unless all of the following have occurred:

(a) Blood tests have been conducted;

(b) The results of the blood tests have been served upon the parties and notice has been given that an order establishing paternity will be entered unless a written objection is received within 30 days; and

(c) A written objection to the entry of an order has been timely received from a party.

(6) Notwithstanding the provisions of subsection (5) of this section, the administrator:

(a) Shall certify the matter to court:

(A) Within 30 days of receipt by the administrator of a timely written objection to the entry of an order by a party under subsection (5)(c) of this section;

(B) When a party requests certification in writing after the administrator has received a party's written denial of paternity if at least 120 days have elapsed from receipt of the denial; or

(C) Upon receipt of blood test results with a cumulative paternity index of less than 99; and

(b) May certify the matter to court at any time under any other circumstances.

(7) If the blood tests conducted under ORS 109.250 to 109.262 result in a cumulative paternity index of 99 or greater, evidence of the tests, together with the testimony of the parent, shall be a sufficient basis upon which to establish paternity and the administrator may enter an order declaring the alleged father as the legal father of the child unless a party objects in writing to the entry of the order. The testimony of the parent may be presented by affidavit.

(8) Prior to certification to court, the administrator may attempt to resolve the issue of paternity by discovery conducted under the Oregon Rules of Civil Procedure. Unless otherwise specifically provided by statute, the proceedings shall be conducted under the Oregon Rules of Civil Procedure.

(9) When, in accordance with subsection (6)(a)(A) of this section, a party objects to the entry of an order and the blood tests conducted under ORS 109.250 to 109.262 result in a cumulative paternity index of 99 or greater, notwithstanding the party's objection, evidence of the tests, together with the testimony of a parent, is a sufficient basis upon which to presume paternity for purposes of establishing temporary support under this section. The court shall, upon motion of any party, enter a temporary order requiring the alleged father to provide support pending the determination of parentage by the court. In determining the amount of support, the court shall use the formula established under ORS 25.275. [1979 c.431 §7; 1983 c.709 §44; 1985 c.671 §38; 1989 c.566 §6; 1991 c.484 §2; 1993 c.596 §36; 1995 c.514 §13; 1995 c.609 §2; 1999 c.80 §28; 2009 c.595 §345; 2013 c.366 §73]

416.435 Certification of paternity issue to circuit or juvenile court; trial. (1) Except as provided in subsection (2) of this section, when a response denying paternity and requesting a hearing is received pursuant to ORS 416.415 (3), or paternity is a valid issue as determined by the administrator under ORS 416.430, the certification to the circuit court shall be to the court in the judicial district where the parent or dependent child resides.

(2) Notwithstanding subsection (1) of this section, if there is an Oregon juvenile court case regarding the dependent child, the matter may be certified to the county that has jurisdiction of the juvenile court case.

(3) The certification shall include true copies of the notice and finding of financial responsibility, the return of service, the denial of paternity and request for hearing and any other relevant papers.

(4) The court shall set the matter for trial and notify the parties of the time and place of trial.

(5) If paternity is established, the monthly support and the amount of past support to be ordered may be established under ORS 416.427. [1979 c.421 §6; 1985 c.671 §39; 1989 c.811 §8; 1991 c.519 §5; 1995 c.514 §10; 2003 c.572 §17]

416.440 Filing order with court; order effective as circuit court judgment. (1) The documents required to be filed for purposes of subsection (2) of this section include all the following:

(a) A true copy of any order entered, filed or registered by the administrator or administrative law judge pursuant to ORS 416.400 to 416.465 or ORS chapter 110.

(b) A true copy of the return of service, if applicable.

(c) A separate statement containing the information required to be contained in a judgment under ORS 18.042 (2).

(2) The documents described under subsection (1) of this section shall be filed in the office of the clerk of the circuit court in the county in which either the parent or the dependent child resides or in the county where the court order was entered if the administrative order is an order modifying a court order. Upon receipt of the documents, the clerk shall enter the order in the register of the circuit court, shall note in the register that the order creates a lien and shall make the notations required by ORS 18.075 in the judgment lien record maintained under ORS 18.075.

(3) Upon entry in the register under subsection (2) of this section, the order shall have all the force, effect and attributes of a judgment of the circuit court, including but not limited to:

(a) Creation of a judgment lien under ORS chapter 18; and

(b) Ability to be enforced by contempt proceedings and pursuant to ORS 18.252 to 18.993.

(4) Notwithstanding subsections (2) and (3) of this section, the entry in the register of an order of the administrator or administrative law judge does not preclude any subsequent proceeding or remedy available under ORS 416.400 to 416.465.

(5) An order filed under this section that modifies a previously filed order or a previously entered judgment may contain provisions that were included in the order or judgment.

(6) A court or administrative order of another state may be filed, or if appropriate, registered, pursuant to this section for the purposes of ORS chapter 110. Notwithstanding any other provision of this chapter, an order of another state registered pursuant to ORS 110.405, 110.408 and 110.411 may not be modified unless the requirements of ORS 110.432 are met. [1979 c.421 §9; 1983 c.696 §20; 1985 c.671 §39a; 1989 c.566 §4; 1989 c.768 §§10,13; 1991 c.519 §6; 1995 c.608 §7; 2003 c.75 §89; 2003 c.116 §14; 2003 c.576 §212; 2005 c.568 §30; 2007 c.339 §14; 2009 c.484 §11; 2013 c.183 §2]

416.443 Reopening issue of paternity; order. (1) As used in this section, “blood tests” has the meaning given that term in ORS 109.251.

(2) No later than one year after an order establishing paternity is entered under ORS 416.440 and if blood tests have not been completed, a party may apply to the administrator to have the issue of paternity reopened and for an order for blood tests.

(3) No later than one year after a voluntary acknowledgment of paternity is filed in this state and if blood tests have not been completed, a party to the acknowledgment, or the Department of Human Services if the child named in the acknowledgment is in the care and custody of the department under ORS chapter 419B, may apply to the administrator for services under ORS 25.080 and for an order for blood tests.

(4) Upon receipt of a timely application, the administrator shall order:

(a) The mother and the male party to submit to blood tests; and

(b) The person having physical custody of the child to submit the child to blood tests.

(5) If a party refuses to comply with an order under subsection (4) of this section, the issue of paternity shall, upon the motion of the administrator, be resolved against that party by an order of the court either affirming or setting aside the order establishing paternity or the voluntary acknowledgment of paternity.

(6) If the results of the blood tests exclude the male party as the biological father of the child, the administrator may file a motion with the court for an order setting aside the order establishing paternity or the voluntary acknowledgment of paternity and for a judgment of nonpaternity.

(7) Support paid before an order establishing paternity or a voluntary acknowledgment of paternity is set aside under this section may not be returned to the payer.

(8) The administrator shall send a court-certified true copy of a judgment of nonpaternity to the State Registrar of the Center for Health Statistics. Upon receipt of the judgment, the state registrar shall correct any records maintained by the state registrar that indicate that the male party is the parent of the child.

(9) The Child Support Program shall pay any state registrar fees and any costs for blood tests ordered under this section, subject to recovery from the party who requested the tests. [1995 c.608 §43; 1999 c.735 §22; 2003 c.576 §213; 2007 c.454 §7]

416.445 [1979 c.421 §10; 1985 c.610 §4; 1989 c.726 §8; 1991 c.362 §4; 1991 c.519 §7; repealed by 1993 c.798 §21]

416.448 Multiple child support judgments. (1) As used in this section:

(a) “Child support judgment” has the meaning given that term in ORS 25.089.

(b) “Governing child support judgment” has the meaning given that term in ORS 25.091.

(2) Notwithstanding any other provision of this section or ORS 25.089, when two or more child support judgments exist involving the same obligor and child, and when one or more of the judgments was issued by a tribunal of another state, the administrator shall apply the provisions of ORS chapter 110 before enforcing or modifying a child support judgment under this section or ORS 25.089.

(3) When the administrator finds that two or more child support judgments exist involving the same obligor and child and the same period, and each child support judgment was issued in this state:

(a) The administrator may petition the court for the county where a child who is subject to the judgments resides for a governing child support judgment under ORS 25.091; or

(b) The administrator may apply the presumption described in ORS 25.091, determine the controlling terms of the child support judgments and issue a proposed governing child support order and notice to the parties in the manner prescribed by rules adopted by the Department of Justice under ORS 416.455. The proposed governing child support order must include all of the information described in ORS 25.091 (8). The administrator shall serve the proposed governing child support order and notice in the manner provided in ORS 416.425. The notice must include a statement that the proposed governing child support order shall become final unless a written objection is made to the administrator within 30 days after service of the proposed governing child support order and notice.

(4) If the administrator receives a timely written objection to a proposed governing child support order issued under subsection (3)(b) of this section, the administrator shall certify the matter to the court for the county where a child who is subject to the judgments resides for a governing child support judgment under ORS 25.091.

(5) If the administrator does not receive a timely written objection to a proposed governing child support order issued under subsection (3)(b) of this section, the governing child support order is final. The administrator shall certify the governing child support order to a court for review and approval. The governing child support order is not effective until reviewed and approved

by the court. If the court approves the governing child support order, the governing child support order becomes the governing child support judgment upon filing as provided in ORS 416.440.

(6) When a governing child support judgment is entered as described in ORS 416.440, the noncontrolling terms of each earlier child support judgment are terminated. However, subject to subsection (7) of this section, the entry of a governing child support judgment does not affect any support payment arrearage or any liability related to medical support, as defined in ORS 25.321, that has accrued under a child support judgment before the governing child support judgment is entered.

(7) For purposes of reconciling any child support arrears or credits under all of the child support judgments, amounts collected and credited for a particular period under one child support judgment must be credited against the amounts accruing or accrued for the same period under any other child support judgment.

(8) Not sooner than 30 days and not later than 60 days after entry of the governing child support judgment, the administrator shall file a certified copy of the governing child support judgment with each court that issued an earlier child support judgment. A failure to file does not affect the validity or enforceability of the governing child support judgment.

(9) When an administrative law judge finds that two or more child support judgments exist involving the same obligor and child and the same period, and each child support judgment was issued in this state, the administrative law judge shall remand the matter to the administrator to follow the provisions of subsection (3) of this section. [2003 c.146 §5; 2005 c.22 §287; 2005 c.83 §3; 2009 c.351 §9; 2011 c.318 §16; 2013 c.183 §3]

416.450 Preventing transfer of assets to evade compliance with order. If at any time subsequent to service, receipt or refusal of a notice pursuant to ORS 416.415, and prior to the entry of an order, the administrator reasonably believes that the parent is about to transfer, encumber, convey, sell, remove, secrete, waste or otherwise dispose of property which could be made subject to collection action to satisfy the order for past support, the administrator may certify the matter to the circuit court, accompanied by a legal description of the property in question, in order to obtain a temporary restraining order directing that such property not be transferred, encumbered, conveyed, sold, removed, secreted, wasted or otherwise disposed of pending entry of a support order by the circuit court. The administrator shall, in such cases, file in the case record a certified statement of the reasons upon which such belief is founded. If the parent furnishes a good and sufficient bond satisfactory to the court, the temporary restraining order shall be vacated. A certified copy of an order entered under this section may be recorded in the same manner as a notice of lis pendens under ORS 93.740. [1979 c.421 §11; 1995 c.514 §11]

416.455 Authority of administrator and administrative law judge; rules. (1) In any individual case, commencing with the payment of public assistance, with the application for enforcement services under ORS 25.080 by an individual not receiving public assistance or upon receipt of a written request for enforcement of a support obligation from the state agency of another state responsible for administering the federal child support enforcement program, the administrator may take action under ORS 416.400 to 416.465. The administrator and, as appropriate, the administrative law judge, may establish, modify and terminate support orders, require health care coverage for dependent children, establish paternity and collect child support.

(2) The Department of Justice may make such rules as may be necessary or desirable for carrying out ORS 416.400 to 416.465. [1979 c.421 §12; 1985 c.671 §40; 1993 c.18 §101; 2003 c.73 §63a; 2003 c.75 §90]

416.460 Expeditious court hearings. The Supreme Court by administrative order shall provide, where necessary, for expeditious hearings on all matters referred to the circuit court pursuant to ORS 416.435 or 416.450. [1979 c.421 §13]

416.465 Relief from compliance with order. The court may, upon such terms as may be just at any time within one year after notice thereof, relieve a parent from an administrative order taken against that parent because of mistake, inadvertence, surprise or excusable neglect. [1979 c.421 §15]

416.470 [1979 c.421 §16; 1985 c.671 §41; 1989 c.566 §5; 2003 c.116 §15; repealed by 2005 c.560 §17]

RECOVERY OF SUPPORT FOR YOUTH OFFENDERS

Note: Definitions in 25.010 and 25.011 relating to support payments or support enforcement procedures apply to ORS chapter 416.

416.480 Definitions for ORS 416.480 to 416.486. As used in ORS 416.480 to 416.486:

- (1) "Administrator" has the meaning given that term in ORS 25.010.
- (2) "Court" means the juvenile court or the circuit court.
- (3) "Director" means the Director of the Oregon Youth Authority.
- (4) "Youth authority" means the Oregon Youth Authority.
- (5) "Youth offender" has the meaning given that term in ORS 419A.004. [1995 c.422 §131s; 2001 c.455 §22]

Note: 416.480 to 416.486 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 416 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

416.483 Order for support of youth offender or other offender. (1) After an opportunity for a hearing on the matter, the court or the administrator may enter an order in favor of the Oregon Youth Authority that requires a parent or other person to pay support toward the care and maintenance of a youth offender or other offender if:

- (a) The parent or other person is legally responsible for the support of the youth offender or other offender; and
- (b)(A) The youth offender is committed to the legal custody of the youth authority by order of the juvenile court; or
- (B) The other offender is placed in the physical custody of the youth authority under ORS 137.124.

(2) The formula established under ORS 25.275 applies to an order entered under this section.

(3) When the administrator makes an order under this section, the provisions of ORS 416.400 to 416.465 apply. [1995 c.422 §131t; 1999 c.213 §1; 2007 c.71 §107]

Note: See note under 416.480.

416.486 Youth authority may enter into agreements for support enforcement services. The Director of the Oregon Youth Authority may apply to the Department of Justice for support enforcement services available under Title IV-D of the Social Security Act with respect to any youth offender or other offender in the legal or physical custody of the Oregon Youth Authority. The youth authority and the department may enter into agreements to implement this section. [1995 c.422 §131u; 1999 c.213 §2; 2003 c.73 §64]

Note: See note under 416.480.

LIEN ON RECIPIENT'S CLAIM FOR DAMAGES FOR PERSONAL INJURIES

Note: Definitions in 414.736 apply to ORS chapter 416.

416.510 Definitions for ORS 416.510 to 416.610. As used in ORS 416.510 to 416.610, unless the context requires otherwise:

(1) "Action" means an action, suit or proceeding.

(2) "Alternative payment methodology" has the meaning given that term in ORS 414.025.

(3) "Applicant" means an applicant for assistance.

(4) "Assistance" means moneys paid by the Department of Human Services to persons directly and moneys paid by the Oregon Health Authority or by a prepaid managed care health services organization or a coordinated care organization for services provided under contract pursuant to ORS 414.651 to others for the benefit of such persons.

(5) "Authority" means the Oregon Health Authority.

(6) "Claim" means a claim of a recipient of assistance for damages for personal injuries against any person or public body, agency or commission other than the State Accident Insurance Fund Corporation or Workers' Compensation Board.

(7) "Compromise" means a compromise between a recipient and any person or public body, agency or commission against whom the recipient has a claim.

(8) "Coordinated care organization" means an organization that meets the criteria adopted by the authority under ORS 414.625.

(9) "Judgment" means a judgment in any action or proceeding brought by a recipient to enforce the claim of the recipient.

(10) "Prepaid managed care health services organization" means a managed health, dental or mental health care organization that contracted with the authority on a prepaid capitated basis. Prepaid managed care health services organizations may be dental care organizations, fully capitated health plans, mental health organizations or chemical dependency organizations.

(11) "Recipient" means a recipient of assistance.

(12) "Settlement" means a settlement between a recipient and any person or public body, agency or commission against whom the recipient has a claim. [Formerly 411.552; 1969 c.203 §12; 2001 c.600 §1; 2009 c.595 §346; 2011 c.417 §6; 2011 c.602 §49]

416.520 Claim for damages for personal injuries not grounds for denying assistance. If any applicant or recipient has a claim for damages for personal injuries, the existence of such claim or any action to enforce such claim shall not be grounds for denying or discontinuing assistance to such applicant or recipient. [Formerly 411.554]

416.530 Notice of claim to department, authority or coordinated care organization. (1) If any applicant or recipient makes a claim or, without making a claim, begins an action to enforce such claim, the applicant or recipient, or the attorney for the applicant or the recipient, shall immediately notify the Department of Human Services or the Oregon Health Authority and the recipient's coordinated care organization, if the recipient is receiving services from the organization. If an applicant or recipient, or the attorney for the applicant or the recipient, has given notice that the applicant or recipient has made a claim, it shall not be necessary for the applicant or recipient, or the attorney for the applicant or the recipient, to give notice that the applicant or recipient has begun an action to enforce such claim. The notification shall include the name and address of each person or public body, agency or commission against whom claim is made or action is brought. If claim is made or action is brought against a corporation, the address given in such notification shall be that of its principal place of business. If the

applicant or recipient is a minor, the parents, legal guardian or foster parents of the minor shall give the notification required by this section.

(2) The notification required by subsection (1) of this section shall be provided to:

(a) The Oregon Health Authority by applicants for or recipients of assistance provided by the authority; and

(b) The Department of Human Services for assistance provided by the department. [Formerly 411.556; 2001 c.600 §2; 2009 c.595 §347; 2011 c.602 §50]

416.540 Lien of department and authority; assignment of lien to prepaid managed care health services organization or coordinated care organization. (1) Except as provided in subsection (2) of this section and in ORS 416.590, the Department of Human Services and the Oregon Health Authority shall have a lien upon the amount of any judgment in favor of a recipient or amount payable to the recipient under a settlement or compromise for all assistance received by such recipient from the date of the injury of the recipient to the date of satisfaction of such judgment or payment under such settlement or compromise.

(2) The lien does not attach to the amount of any judgment, settlement or compromise to the extent of attorney's fees, costs and expenses incurred by a recipient in securing such judgment, settlement or compromise and to the extent of medical, surgical and hospital expenses incurred by the recipient on account of the personal injuries for which the recipient had a claim.

(3) The authority may assign the lien described in subsection (1) of this section to a prepaid managed care health services organization or a coordinated care organization for medical costs incurred by a recipient:

(a) During a period for which the authority paid a capitation or enrollment fee or a payment using a global payment methodology; and

(b) On account of the personal injury for which the recipient had a claim.

(4) A prepaid managed care health services organization or a coordinated care organization to which the authority has assigned a lien shall notify the authority no later than 10 days after filing notice of a lien.

(5) For the purposes of ORS 416.510 to 416.610, the authority may designate the prepaid managed care health services organization or the coordinated care organization to which a lien is assigned as its designee.

(6) If the authority and a prepaid managed care health services organization or a coordinated care organization both have filed a lien, the authority's lien shall be satisfied first. [Formerly 411.558; 2001 c.600 §4; 2009 c.595 §348; 2011 c.602 §51; 2012 c.8 §27]

416.550 Procedure to perfect lien. (1) Upon receiving notice under ORS 416.530, to perfect its lien the Department of Human Services or the Oregon Health Authority shall:

(a) File a notice of lien, substantially in the form prescribed in ORS 416.560, with the recording officer of the county in which the person against whom claim is made or action is brought resides. If the claim or action is against a corporation, the notice of lien shall be filed with the recording officer of the county within the state in which such corporation has its principal place of business. If the claim or action is against a public body, agency or commission, the notice of lien shall be filed with the recording officer of the county in which the public body, agency or commission has its main offices; and

(b) Prior to the date of satisfaction of the judgment or payment under the settlement or compromise, send a certified copy of the notice of lien by registered mail or by certified mail with return receipt to each person or public body, agency or commission against whom claim is made or action is brought by the recipient.

(2) Upon the filing of a notice of lien by the department or the authority, the recording officer shall enter the name of the injured person, the approximate date of the injury and the name of the department or the authority as lienor in the hospital lien docket provided for in ORS 87.575 and shall make an index thereto in the names of the injured persons and the department or the authority. [Formerly 411.560; 1991 c.249 §33; 2001 c.600 §5; 2009 c.595 §349]

416.560 Form of notice of lien. The form of the notice required by ORS 416.550 (1) shall be substantially as follows:

Notice is hereby given that the _____ has rendered assistance to _____, a person who was injured on or about the ___ day of _____ in the city of _____ and State of _____, and the _____ hereby asserts a lien to the extent provided in ORS 416.510 to 416.610, for the amount of such assistance upon any amount due and owing _____ (name of injured person) under a judgment, settlement or compromise from _____ alleged to have caused such injuries and from any other person or public body, agency or commission liable for the injury or obligated to compensate the injured person on account of such injuries.

Department of Human Services/Oregon Health Authority
by _____,
Director of _____ or designee.

State of Oregon,)
) ss.
County of _____)

I, _____, being first duly sworn on oath say: That I am the Director of _____ or designee; that I have read the foregoing notice of lien and know the contents thereof and believe the same to be true.

Subscribed and sworn to before me this ____ day of _____, _____.

_____, Notary Public.
[Formerly 411.562; 1969 c.597

§251; 2001 c.600 §6; 2009 c.595 §350]

416.570 Notice required when judgment rendered or claim settled; statement by department or authority of amount of lien. Immediately after a judgment has been rendered in favor of a recipient or a settlement or compromise has been agreed upon, the person or public body, agency or commission bound by such judgment, settlement or compromise shall notify the Department of Human Services or the Oregon Health Authority. After such notification the department or the authority shall send a statement of the amount of its lien to such person or public body, agency or commission by registered mail or by certified mail with return receipt. [Formerly 411.564; 1991 c.249 §34; 2001 c.600 §7; 2009 c.595 §351]

416.580 Payment in satisfaction of lien. (1) After a notice of lien is filed in the manner provided in ORS 416.550 (2), any person or public body, agency or commission who makes any payment to the injured recipient, the heirs, personal representatives or assigns of the recipient, or their attorneys, under a judgment, settlement or compromise without previously having paid to the Department of Human Services or the Oregon Health Authority the amount of its lien, shall be liable to the State of Oregon, for the use and benefit of the department or the authority for a period of 180 days after the date of such payment for the amount of such payment to the extent that the lien attached thereto under ORS 416.540.

(2) Any amount paid to the department or the authority in satisfaction of its lien shall be distributed by the department or the authority to the United States Government and the Public Welfare Account, as their interests may appear.

(3) If the recipient is a minor, no payments to the department or the authority in satisfaction of its lien and, except to the extent of the fees, costs and expenses specified in ORS 416.540 (2), no payments to the recipient under a judgment, settlement or compromise shall be made until a hearing has taken place and the court has issued its order under ORS 416.590. [Formerly 411.566; 1969 c.45 §3; 2001 c.600 §8; 2009 c.595 §352]

416.590 Procedure when recipient is minor. (1) If the recipient is a minor, after the date on which a judgment in favor of the recipient is rendered or settlement or compromise is agreed upon, the guardian of the minor or the conservator of the estate of the minor shall petition the court having probate jurisdiction in the county in which the guardian or conservator was appointed to determine the sum that will be needed for the minor's complete physical rehabilitation. If the guardian or the conservator of the minor's estate fails to petition the court, any other interested person or public body, agency or commission may file the petition. The lien of the Department of Human Services or the Oregon Health Authority provided for in ORS 416.510 to 416.610 shall not attach to the amount of the judgment, settlement or compromise to the extent of the sum needed for the rehabilitation. Among other data, the petition shall contain the name and address of each person or public body, agency or commission liable to the minor under the judgment, settlement or compromise.

(2) The court shall conduct a hearing to determine the sum that will be needed by the minor and at least 10 days prior to the date of the hearing, the clerk of the court shall notify the conservator of the minor's estate, the department or the authority and the person who filed the petition, if the person is someone other than the guardian or the conservator of the minor's estate, of the date on which the hearing will be held. At the hearing any interested person as well as witnesses for the minor and for the department or the authority may testify on the question before the court. Upon reaching a decision, the court shall issue an order setting forth the decision and the clerk of the court shall enter the order in an appropriate record book. The clerk shall also send a copy of the order to the guardian or the conservator of the minor's estate, the person who filed the petition if the person is someone other than the guardian or the conservator of the minor's estate, the department or the authority and to each person or public body, agency or commission liable to the minor under the judgment, settlement or compromise. [Formerly 411.568; 1973 c.823 §131; 2001 c.600 §9; 2009 c.595 §353]

416.600 Release of portion of lien in certain cases. When the Department of Human Services or the Oregon Health Authority determines that a recipient will incur additional medical, surgical or hospital expenses or that additional assistance will have to be given to the recipient after the date of satisfaction of judgment or payment under a settlement or compromise, the department or the authority may release any portion of its lien to the extent of such anticipated expenses and assistance. [Formerly 411.570; 2001 c.600 §10; 2009 c.595 §354]

416.610 Action against recipient who fails to provide notice of claim. The Department of Human Services, the Oregon Health Authority or the recipient's coordinated care organization, if the recipient is receiving services from the organization, shall have a cause of action against any recipient who fails to give the notification required by ORS 416.530 for amounts received by the recipient pursuant to a judgment, settlement or compromise to the extent that the department, the authority or the coordinated care organization could have had a lien against such amounts had such notice been given. [Formerly 411.572; 2001 c.600 §3; 2009 c.595 §355; 2011 c.602 §52; 2011 c.720 §155]

MISCELLANEOUS PROVISIONS

416.810 Disposition of reimbursements for public assistance granted. All sums of money recovered by or paid to the Department of Human Services as reimbursement for funds granted for public assistance shall be paid into the State Treasury and credited to the Public Welfare Account and may be expended for public assistance purposes in accordance with ORS 411.060 to 411.095 and 411.710 to 411.730. However, the United States Government is entitled to a share of any amount received as its interest may appear, which shall be promptly paid to the United States Government. [Formerly 411.510; 1969 c.45 §4; 2003 c.14 §208; 2009 c.11 §58]

416.820 Acceptance and disbursement of gifts for support of certain persons. The Department of Human Services may accept funds, money or other valuable things from relatives, corporations or interested persons or organizations for the care and support of needy persons and may expend the same for the care and support of the individual or individuals for whom the money was paid. Funds accruing thereunder shall be deposited with the State Treasurer in a special account and shall be disbursed in accordance with ORS 411.060 to 411.095 and 411.710 to 411.730. [Formerly 411.520; 1971 c.779 §51; 2009 c.11 §59]

416.830 Acceptance and disbursement of gifts for public assistance. The Department of Human Services may accept from persons, corporations and organizations contributions or gifts in cash or otherwise that shall be disbursed in the same manner as moneys appropriated for public assistance purposes, unless the donor of a gift stipulates a different manner in which a gift shall be expended. Moneys received under this section shall be deposited with the State Treasurer in an account separate and distinct from the General Fund. Interest earned by the account shall be credited to the account. Moneys in the account are continuously appropriated to the department for the purposes specified in this section. [Formerly 411.530; 1971 c.779 §52; 1989 c.966 §47; 2005 c.755 §33]

PENALTIES

416.990 Penalties. Any person who makes, renders, signs or verifies any false or fraudulent statement, or supplies any false or fraudulent information with intent to evade any lawful requirement of the Department of Human Services or the Oregon Health Authority is guilty of a misdemeanor. [Formerly part of 411.990; 2001 c.900 §225; 2009 c.595 §356]