



# Oregon Department of Justice

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## Division of Child Support

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### TESTIMONY ON SENATE BILL 364 For the Senate Judiciary Committee February 13, 2019

#### Presented by:

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This testimony is presented in support of Senate Bill 364.

Senate Bill 364 consists of minor updates and clarifications to 13 statutes. All changes are limited in scope and are intended to increase consistency and clarity within the relevant statutes.

#### Key Points of Legislation

- **ORS 25.010(7):** Replaces “an obligor” with “a person” in the definition of “income” because both the obligor and the obligee are used to calculate the child support amount.
- **ORS 25.020:** Clarifies subsections (12) and (13) by replacing “obligee” with “party to whom unpaid support is owed” because support may not always be owed to the obligee, such as a child attending school. SB 364 also replaces the language in former subsection (12)(a) “limited to the current balance owed to the obligee” with “[t]he credit under this subsection may not exceed the current unpaid balance of support owed to the party that has agreed in writing that payments were made and should be credited.” This clarifies that the credit for payments in this subsection is limited to the unpaid balance to whom the unpaid support is owed, as it may not always be the obligee.
- **ORS 25.084:** Removes the requirement that an application for services include the last known addresses of the obligor and the obligee. Currently, an application for services includes this requirement, and without this information the application is rejected. However, federal regulation 45 CFR 313.2(3) does not require the provision of last known addresses in applications for child support services. Currently, ORS 25.084(1)(b) provides Oregon with inappropriate authority to reject applications that must be accepted under federal regulation.
- **ORS 25.125:** Removes the reference to payments transmitted to collection agencies because they are no longer authorized to receive payments. (45 CFR 302.38).
- **ORS 25.166:** Clarifies that ORS 25.166 has no effect on the accrual of interest under ORS 82.010. The current statute does not specify whether the delinquency date impacts the accrual of interest, but

there was no intent for it to do so when the statute was enacted in the 2017 Legislative Session (SB 516).

- **ORS 25.220:** Provides for the authentication of the administrator’s computer printouts through certification signed by an employee or officer. It does not authorize electronic signatures. In addition, the statute’s reference to “printouts” does not encompass all potential records that may be entered into evidence by the administrator. SB 364 allows an electronic signature to certify a record as a true copy and replaces the reference to “printouts” with “records.”
- **ORS 25.247:** Removes a drafting error from the 2017 Legislative Session (SB 682). The final phrase of subsection (2) “or as determined by the court” belongs at the end of subsection (1) to clarify that the court may determine when the presumption of an inability to pay is rebutted. The statement in subsection (2) confuses the intended meaning and allows for unintentional interpretations, including that the court can determine who qualifies as an incarcerated obligor. Additionally, SB 364 replaces “the Department of Justice” with “the administrator” to provide consistency throughout the statute and remove any unnecessary and unintended restrictions.
- **ORS 25.260(5):** Conforms ORS 25.260 to federal law 45 CFR 303.21 regarding the release of confidential child support information by the Oregon Child Support Program to other state agencies administering any Title IV, XIX, XXI, SNAP, and Tribal TANF programs.
- **ORS 25.287:** Amends to provide other than contested case review rights, rather than hearing rights, when the only basis for a denial of a modification is that 35 months have not yet elapsed. The current statute provides a right to an administrative hearing, incurring costs to the Department of Justice to send cases to the Office of Administrative Hearings for the sole purpose of determining whether 35 months have passed.
- **ORS 25.640:** Updates the definition of “financial institution” to include entities licensed under the Oregon Money Transmitter Act.
- **ORS 25.790:** Removes the reference to employers transmitting new hire reports “magnetically” in order to update the statute to current practices.
- **ORS 107.108:** Removes references to “obligee” for consistency with the updates made in this bill to ORS 25.020, which replaces “obligee” with “party to whom unpaid support is owed.”
- **ORS 107.135(7):** Removes the reference to “set aside” or “alter” from the prohibition against changing portions of judgments that provide for payment of money that accrued before the motion was served. The current statute includes “set aside, alter or modify” in the prohibition against changing portions of judgments that provide for payment of money that accrued before the motion was served. Set asides are used to provide relief from a judgment that was based on factors such as mistakes or newly found evidence that existed at the time the judgment was entered. Modifications are based on a change in circumstance that happened after the judgment was entered. Federal law 42 USC §666(a)(9)(C) only requires a prohibition against changing portions of judgments that provide for payment of money that accrued before the motion was served for modifications. Including “set aside” in the current statute limits the overall remedy of a set aside for child support judgments and is not prohibited by federal law. SB 364 would allow the court to use the remedy of setting aside an order to its full extent when circumstances warrant. Further, “alter” is repetitive of “modification” and creates ambiguity in the statute.

- **ORS 416.429:** Removes the requirement that the notice of intent to establish and enforce arrearages include a demand for the obligor to make full payment or object within 30 days of receipt or service of the notice. The current statute requires 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 stated in the notice be entered in the accounting record maintained by the Department. Thus, an order will be entered only at the end of the 30 days if the obligor does not respond. If an obligor makes a payment as demanded in the notice, they have fulfilled one of the requirements that prevent the order from being entered and the arrears would not be added to the accounting record. Further, if the amount in the notice is not entered in the accounting record, the payment cannot be distributed. Removal of the requirement to include in the notice a demand for either full payment or an objection allows the order to direct that the amount of the arrearages be entered in the child support accounting record, regardless of receipt of any payments prior to such an order.

**Fiscal Impact**

None.

**Recommended Action**

The Department of Justice recommends committee approval of Senate Bill 364 because it will make the Oregon Child Support Program's processes more efficient, enhance customer service, and conform to federal law.