

# House Bill 3347

Sponsored by Representative KROPF (at the request of Attorney General Dan Rayfield)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes changes to some laws about family support payments. (Flesch Readability Score: 64.9).

Directs the Department of Justice to disburse to certain obligees payments of support that have been assigned to the state. Directs the Department of Human Services to disregard certain child and spousal support paid to the family.

## A BILL FOR AN ACT

1  
2 Relating to family support payments; amending ORS 25.020 and 412.007.

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

4 **SECTION 1.** ORS 25.020 is amended to read:

5 25.020. (1) Support payments for or on behalf of any person that are ordered, registered or filed  
6 under ORS 25.501 to 25.556 or this chapter or ORS chapter 107, 108, 109, 110, 419B or 419C, unless  
7 otherwise authorized by ORS 25.030, shall be made to the Department of Justice as the state dis-  
8 bursement unit:

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

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

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

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

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

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

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

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

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

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

29 (b) The collection agency:

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

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

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

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

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

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

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

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

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

- 26 (A) Date of issuance of the support order.
- 27 (B) Amount of the support order.
- 28 (C) Dates and amounts of payments.
- 29 (D) Dates and amounts of disbursements.
- 30 (E) Payee of any disbursements.
- 31 (F) Amount of any arrearage.
- 32 (G) Source of any collection, to the extent allowed by federal law.

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

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

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

- 40 (A) The residence, mailing or contact address, final four digits of the Social Security number,  
 41 telephone number and final four digits of the driver license number of each party;
- 42 (B) The name, address and telephone number of all employers of each party;
- 43 (C) The names and dates of birth of the joint children of the parties; and
- 44 (D) Any other information required by rule adopted by the Chief Justice of the Supreme Court  
 45 under ORS 1.002.

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

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

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

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

9 (d)(A) Upon a finding, which may be made ex parte, that the health, safety or liberty of a party  
10 or child would unreasonably be put at risk by the disclosure of information specified in this sub-  
11 section or by the disclosure of other information concerning a child or party to a parentage or  
12 support proceeding or if an existing order so requires, a court or administrator or administrative  
13 law judge, when the proceeding is administrative, shall order that the information not be contained  
14 in any document provided to another party or otherwise disclosed to a party other than the state.

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

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

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

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

28 (10) Subject to ORS 25.030, this section, to the extent it imposes any duty or function upon the  
29 Department of Justice, shall be deemed to supersede any provisions of ORS 25.501 to 25.556 and ORS  
30 chapters 107, 108, 109, 110, 419A, 419B and 419C that would otherwise impose the same duties or  
31 functions upon the county clerk or the Department of Human Services.

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

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

36 (A) When payments are not assigned to this or another state and the party to whom unpaid  
37 support is owed and the obligor agree in writing that specific payments were made and should be  
38 credited;

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

41 (C) As provided by rule adopted under ORS 180.345.

42 (b) The credit under this subsection may not exceed the current unpaid balance of support owed  
43 to the party that has agreed in writing that payments were made and should be credited.

44 (13) An obligor may apply to the Department of Justice for credit for payments made other than  
45 to the Department of Justice. If the party to whom unpaid support is owed does not provide the

1 agreement or verification required by subsection (12) of this section, credit may be given pursuant  
 2 to order of an administrative law judge assigned from the Office of Administrative Hearings after  
 3 notice and opportunity to object and be heard are given to both the obligor and the party to whom  
 4 unpaid support is owed. Notice shall be served upon the party to whom unpaid support is owed as  
 5 provided by ORS 25.085. Notice to the obligor may be by regular mail at the address provided in the  
 6 application for credit. A hearing conducted under this subsection is a contested case hearing and  
 7 ORS 183.413 to 183.470 apply. Any party may seek a hearing de novo in the circuit court.

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

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

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

14 (b) Are consistent with federal regulations.

15 **SECTION 2.** ORS 412.007 is amended to read:

16 412.007. (1) The eligibility for and amount of aid to be granted for any dependent child or rela-  
 17 tive pursuant to ORS 412.006 shall be determined, in accordance with the rules of the Department  
 18 of Human Services, taking into account:

19 (a) The income, resources and maintenance available to such child and relative from whatever  
 20 source derived, allowable deductions and the statewide income and payment standards.

21 (b) The income and financial condition of the stepparent, if any, of the child for whom aid is  
 22 sought.

23 (2) Subsection (1)(b) of this section is not intended to relieve any parent of any legal obligation  
 24 with respect to the support of the natural or adopted children of the parent.

25 (3) In determining the eligibility for and amount of aid to be granted under subsection (1) of this  
 26 section and under ORS 411.070, the department shall disregard:

27 (a) From income, [*no less than \$50 of the amount of child support received for each child per*  
 28 *month, up to a total of \$200 or the maximum established by federal law, for the family*] **all child and**  
 29 **spousal support that is paid to the family;**

30 (b) As resources, moneys held in a pension or retirement account; and

31 (c) Any earnings or other income or resources of the family as the department may prescribe  
 32 by rule.

33 (4) As used in this section, “pension and retirement account” includes:

34 (a) Benefits employees receive only when they retire or leave employment;

35 (b) Pension, profit-sharing and stock bonus plans exempt from taxation by section 401 of the  
 36 Internal Revenue Code;

37 (c) Qualified annuities exempt from taxation by section 403(a) or (b) of the Internal Revenue  
 38 Code;

39 (d) Accounts or annuities exempt from taxation by section 408(a), (b), (c), (k), (p) or (q) of the  
 40 Internal Revenue Code;

41 (e) Roth individual retirement plans authorized by section 408A of the Internal Revenue Code;

42 (f) Retirement plans offered by governments, nonprofit organizations or unions that are:

43 (A) Exempt from taxation under section 457(b) or 501(c)(18) of the Internal Revenue Code; or

44 (B) Contributions to the Thrift Savings Fund authorized by 5 U.S.C. 8439; and

45 (g) Defined contribution plan accounts described in ORS 178.210.

