

Senate Bill 879

Sponsored by Senator SMITH DB

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 how a person can rebut a presumption that certain people are not able to pay child support. (Flesch Readability Score: 65.2).

Modifies procedure for rebutting presumption of inability to pay child support when an obligor earns wages from work performed while the obligor is a patient at the state hospital or incarcerated.

A BILL FOR AN ACT

1
2 Relating to child support obligations of persons in custody; creating new provisions; and amending
3 ORS 25.245 and 25.247.

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

5 **SECTION 1. Section 2 of this 2025 Act is added to and made a part of ORS chapter 25.**

6 **SECTION 2. (1) Each month, the Oregon Health Authority and the Department of Cor-**
7 **rections shall identify those persons who are patients at the state hospital or incarcerated**
8 **and who receive compensation for work performed at the state hospital or through a pro-**
9 **gram operated by the Department of Corrections or Oregon Corrections Enterprises, and**
10 **provide that information to the administrator.**

11 **(2)(a) If a person identified under subsection (1) of this section has previously been**
12 **rebuttably presumed unable to pay child support under ORS 25.245 or 25.247, the entity re-**
13 **sponsible for support enforcement shall provide notice of the obligor's employment to the**
14 **obligee and obligor.**

15 **(b) The notice must inform the parties that:**

16 **(A) Evidence of the obligor's employment may be used as evidence to rebut the**
17 **presumption of inability to pay child support; and**

18 **(B) Unless a party objects as provided in ORS 25.245 (4) or (6) or 25.247 (6), as applicable,**
19 **the support order will remain suspended.**

20 **(3) Within 30 days following the date the entity providing support enforcement services**
21 **receives the notice described in subsection (1) of this section, the entity shall serve the no-**
22 **tice described in subsection (2) of this section on the obligee in the manner provided for the**
23 **service of summons in a civil action, by certified first class mail, return receipt requested,**
24 **or by any other mail service with delivery confirmation and shall serve the notice on the**
25 **obligor by first class mail to the obligor's last-known address. The notice must contain a**
26 **statement that the administrator represents the state and that low-cost legal counsel may**
27 **be available.**

28 **SECTION 3. ORS 25.245 is amended to read:**

29 **25.245. (1) Notwithstanding any other provision of Oregon law, a parent who is eligible for and**
30 **receiving cash payments under ORS 412.001 to 412.069, Title IV-A of the Social Security Act, the**

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 general assistance program as provided in ORS chapter 411 or a general assistance program of an-
2 other state or tribe, the Oregon Supplemental Income Program or the federal Supplemental Security
3 Income Program shall be rebuttably presumed unable to pay child support and a child support obli-
4 gation does not accrue unless the presumption is rebutted.

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

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

25 (4) A party may object to the presumption by sending an objection to the entity responsible for
26 support enforcement services under ORS 25.080 within 30 days after the date of service of the no-
27 tice. The objection must describe the resources of the obligor or other evidence that might rebut the
28 presumption of inability to pay child support. The entity receiving the objection shall cause the case
29 to be set for a hearing before a court or an administrative law judge. The court or administrative
30 law judge may consider only whether the presumption has been rebutted.

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

38 **(6) After the suspension of a support order, if a party received notice described in section**
39 **2 (2) of this 2025 Act, the party may object to the presumption of inability to pay by sending**
40 **an objection to the entity that served the notice within 30 days after the date of service. The**
41 **objection must describe the evidence of ability to pay that was not available at the time the**
42 **order was suspended. The entity receiving the objection shall cause the case to be set for a**
43 **hearing before a court or an administrative law judge. The court or administrative law judge**
44 **may consider only whether the presumption has been rebutted.**

45 **(7) If an objection is made under subsection (6) of this section and the court or admin-**

1 **istrative law judge finds that the presumption has been rebutted, the support order will be**
 2 **reinstated on the first day of the first month following the finding by the court or adminis-**
 3 **trative law judge.**

4 [(6)(a)] (8)(a) Within 30 days after the date the obligor ceases receiving cash payments under a
 5 program listed in subsection (1) of this section, the Department of Justice shall provide notice to
 6 all parties to the support order:

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

8 (B) Stating that the payment of those benefits has terminated and that by operation of law bill-
 9 ing and accrual of support resumes; and

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

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

15 (c) The entity providing enforcement services shall file a copy of the notice required by para-
 16 graph (a) of this subsection with the circuit court in which the support order or judgment has been
 17 entered.

18 [(7)] (9) Receipt by a child support obligor of cash payments under any of the programs listed
 19 in subsection (1) of this section shall be sufficient cause for a court or administrative law judge to
 20 allow a credit and satisfaction against child support arrearage for months that the obligor received
 21 the cash payments.

22 [(8)] (10) The notice and finding of financial responsibility required by ORS 25.511 shall include
 23 notice of the presumption, nonaccrual and arrearage credit rights provided for in this section.

24 [(9)] (11) The presumption, nonaccrual and arrearage credit rights created by this section shall
 25 apply whether or not child support enforcement services are being provided under Title IV-D of the
 26 Social Security Act.

27 [(10)] (12) Application of the presumption, nonaccrual and arrearage credit rights created by this
 28 section does not constitute a modification but does not limit the right of any party to seek a mod-
 29 ification of a support order based upon a change of circumstances or pursuant to ORS 25.287 or any
 30 other provision of law. In determining whether a change in circumstances has occurred or whether
 31 three years have elapsed, or such shorter cycle as determined by rule of the Department of Justice,
 32 since entry of a support order, the court or administrative law judge may not consider any action
 33 taken under this section as entry of a support order. The presumption stated in subsection (1) of this
 34 section applies in any modification proceeding.

35 **SECTION 4.** ORS 25.247 is amended to read:

36 25.247. (1) An obligor who is incarcerated for a period of 180 or more consecutive days shall be
 37 rebuttably presumed unable to pay child support and a child support obligation does not accrue for
 38 the duration of the incarceration unless the presumption is rebutted as provided in this section or
 39 as determined by the court.

40 (2) The Department of Justice and the Department of Corrections shall enter into an agreement
 41 to conduct data matches to identify the obligors described in subsection (1) of this section.

42 (3) Within 30 days following identification of an obligor described in subsection (1) of this sec-
 43 tion whose child support obligation has not already been modified due to incarceration, the entity
 44 responsible for support enforcement services under ORS 25.080 shall provide notice of the
 45 presumption to the obligee and obligor and shall inform all parties to the support order that, unless

1 a party objects as provided in subsection (4) of this section, child support shall cease accruing be-
2 ginning with the first day of the first month that follows the obligor becoming incarcerated for a
3 period of at least 180 consecutive days and continuing through the support payment due in the last
4 month prior to the reinstatement of the support order as provided in subsection (8) of this section.
5 The entity shall serve the notice on the obligee in the manner provided for the service of summons
6 in a civil action, by certified mail, return receipt requested, or by any other mail service with de-
7 livery confirmation and shall serve the notice on the obligor by first class mail to the obligor's
8 last-known address. The notice shall specify the month in which the obligor became incarcerated
9 and shall contain a statement that the administrator represents the state and that low-cost legal
10 counsel may be available.

11 (4) Before the support order is suspended, a party may object to the presumption by sending an
12 objection to the entity that served the notice under subsection (3) of this section within 30 days
13 after the date of service of the notice. The objection must describe the resources of the obligor or
14 other evidence that rebuts the presumption of inability to pay child support. The entity receiving
15 the objection shall cause the case to be set for a hearing before a court or an administrative law
16 judge. The court or administrative law judge may consider only whether the presumption has been
17 rebutted.

18 (5) If no objection is made under subsection (4) of this section, or if the court or administrative
19 law judge finds that the presumption has not been rebutted, the administrator shall discontinue
20 billing the obligor for the period of time described in subsection (3) of this section and no arrearage
21 shall accrue for the period during which the obligor is not billed. In addition, the entity providing
22 support enforcement services shall file with the circuit court in which the support order or judgment
23 has been entered a copy of the notice described in subsection (3) of this section or, if an objection
24 is made and the presumption is not rebutted, a copy of the court's or administrative law judge's
25 order.

26 (6)(a) After the suspension of a support order, a party may object to the presumption of inability
27 to pay by:

28 (A) Sending an objection to the entity that served the notice under subsection (3) of this
29 section; or

30 (B) **If the party received notice under section 2 of this 2025 Act, by sending an objection**
31 **to the entity that served the notice within 30 days after the date of service of the notice**
32 **under section 2 of this 2025 Act.**

33 (b) The objection must describe the evidence of ability to pay that was not available at the time
34 the order was suspended. The entity receiving the objection shall cause the case to be set for a
35 hearing before a court or an administrative law judge. The court or administrative law judge may
36 consider only whether the presumption has been rebutted. In making the determination, the court
37 or administrative law judge shall consider any evidence presented by a party of the expenses an
38 obligor will incur reintegrating into society following release from incarceration.

39 (7) If an objection is made under subsection (6) of this section and the court or administrative
40 law judge finds that the presumption has been rebutted, the support order will be reinstated at 50
41 percent of the previously ordered support amount on the first day of the first month following the
42 finding by the court or administrative law judge.

43 (8) An order that has been suspended as provided in subsection (3) of this section will auto-
44 matically be reinstated at 50 percent of the previously ordered support amount on the first day of
45 the first month that follows the 120th day after the obligor's release from incarceration.

1 (9)(a) Within 30 days following reinstatement of the order pursuant to subsection (8) of this
 2 section, the administrator shall provide notice to all parties to the support order:

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

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

6 (C) Informing the parties that the administrator will review the support order for purposes of
 7 modification of the support order as provided in subsection (10) of this section within 60 days fol-
 8 lowing reinstatement of the order.

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

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

14 (10) Within 60 days of the reinstatement under subsection (7) or (8) of this section, the admin-
 15 istrator shall review the support order for purposes of modifying the support order. Reinstatement
 16 of support after an order has been suspended under this section is considered a substantial change
 17 of circumstances for purposes of child support modification proceedings.

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

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

25 (13) The provisions of subsections (1) and (11) of this section apply regardless of whether child
 26 support enforcement services are being provided under Title IV-D of the Social Security Act.

27 (14) The Department of Justice shall adopt rules to implement this section.

28 (15) As used in this section, “support order” means a judgment or administrative order that
 29 creates child support rights and that is entered or issued under ORS 25.501 to 25.556 or 419B.400
 30 or this chapter or ORS chapter 107, 108, 109 or 110.

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