

Child Support Program & IV-D Changes

Oregon Judicial Department &
State Family Law Advisory Committee
Family Law Conference
September 24, 2021

Part 1

OJD-DOJ Federal Funding Collaboration

Part 2

Oregon Child Support Program

The presenters:

Maureen McKnight, Senior Judge, OJD

Kate Cooper Richardson, Director, Oregon Child Support Program, DOJ

Dawn M. Marquardt, Deputy Director, Oregon Child Support Program, DOJ

Claudia G. Groberg, Attorney-in-Charge, Civil Recovery Section, DOJ

OJD-DOJ

Federal Funding Collaboration

Providing Access, Serving Families, & Solving Problems

Maureen McKnight, Senior Judge, with
Kate Cooper Richardson, Director, Oregon Child Support Program





Covering:

- Intersection of Oregon Child Support Program with Oregon Courts
- Federal funding & policy focus
- What OJD child support matters qualify for federal funding
- Oregon's project



Intersection of Oregon Child Support Program & Oregon Courts

Both OJD and DOJ administer Family Justice systems

- Establishing parentage, child support, & medical support
- Enforcing child support and medical support
- Modifying support obligations

OJD

JUDICIAL ONLY

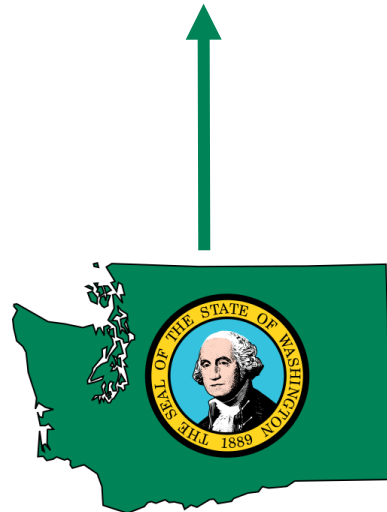
DOJ

**ADMINISTRATIVE
& JUDICIAL**

States vary re position on continuum of legal process used

Administrative

Judicial



Some people must cooperate with the Oregon Child Support Program, because of federal law

- TANF recipients
- Parents of child in govt-paid foster care
- Medicaid recipient (just for recouping medical support)

All others have a *choice* about using the Oregon Child Support Program

Federal law
is why some
parents using
court system
already have a
parentage/support
order before they
file a family law
case judicially



Many Points of Intersection



Docket agency orders w/court

Appeal agency orders to court

Modify judicial & agency orders

Develop rules & legislation on child support guidelines & other issues that bind agency and court

Handle de novo appeal of some agency orders

Honor agency order when deciding disso or 109.103 case

Address uninsureds to supplement agency insurance order

Use agency order to determine change of circumstance for mod

Federal Funding & Policy Focus

- Federal funding for parentage & child support matters – **Title IV-D of the federal Social Security Act** & federal regs
 - IV-A – TANF; IV-E – foster care
- **Originally a welfare-recovery program** from 1974 focused on collecting support from absent parents
 - **Federal policy has evolved to examining social drivers** addressing *why* obligors aren't paying (incarcerated? low-income? no skills?) and encouraging their appropriate access to children and mods when needed



Fed Govt contracts with States:

“Run a parentage and child support program that meets federal standards, and we will reimburse you 66% of (most) costs”



Exceptions include Judges' compensation

DOJ, as Oregon’s child support program, is the recipient of the federal funds, and serves as the “pass-through” entity of \$ to OJD

Federal statute and regulation control these “cooperative agreements”

OJD in Multnomah County has an agreement now (and 1 x before) but we are **working on a *statewide agreement*** now



IMPORTANT

Federal funds going to OJD do not reduce federal IV-D funds available to DOJ or contracting DAs

This collaboration will bring in additional funds to OJD to help Oregon families, & help underwrite family court functions that are currently ill-funded or lacking completely



Many state courts already receive IV-D funding, some for decades:

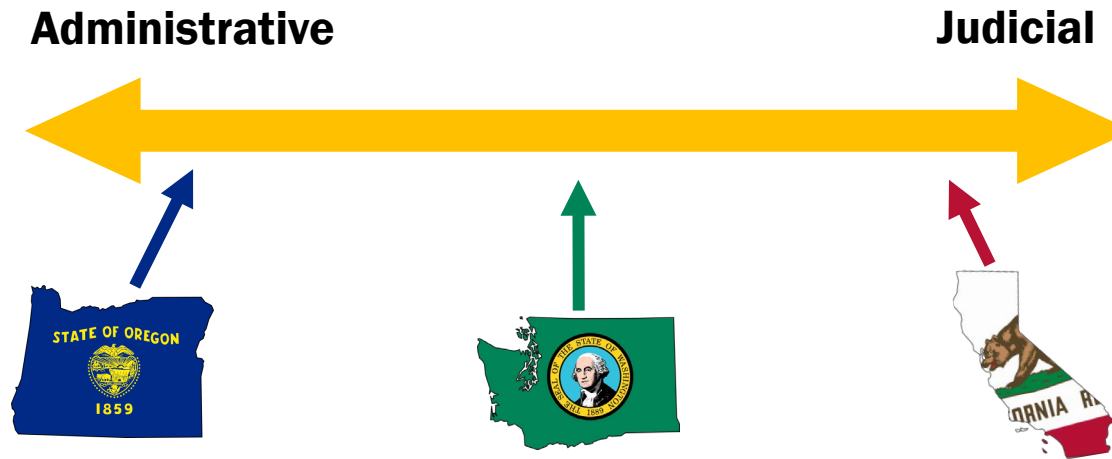
Data entry — processing documents & setting hearings that produce parentage & support orders

Facilitators — assisting parents with parentage & child support issues & forms

Judicial officers — (not judges) such as Commissioners, Magistrates, & Referees who work *under* Judges and address parentage and child support issues



How states handle child support affects what IV-D work done by courts is reimbursable



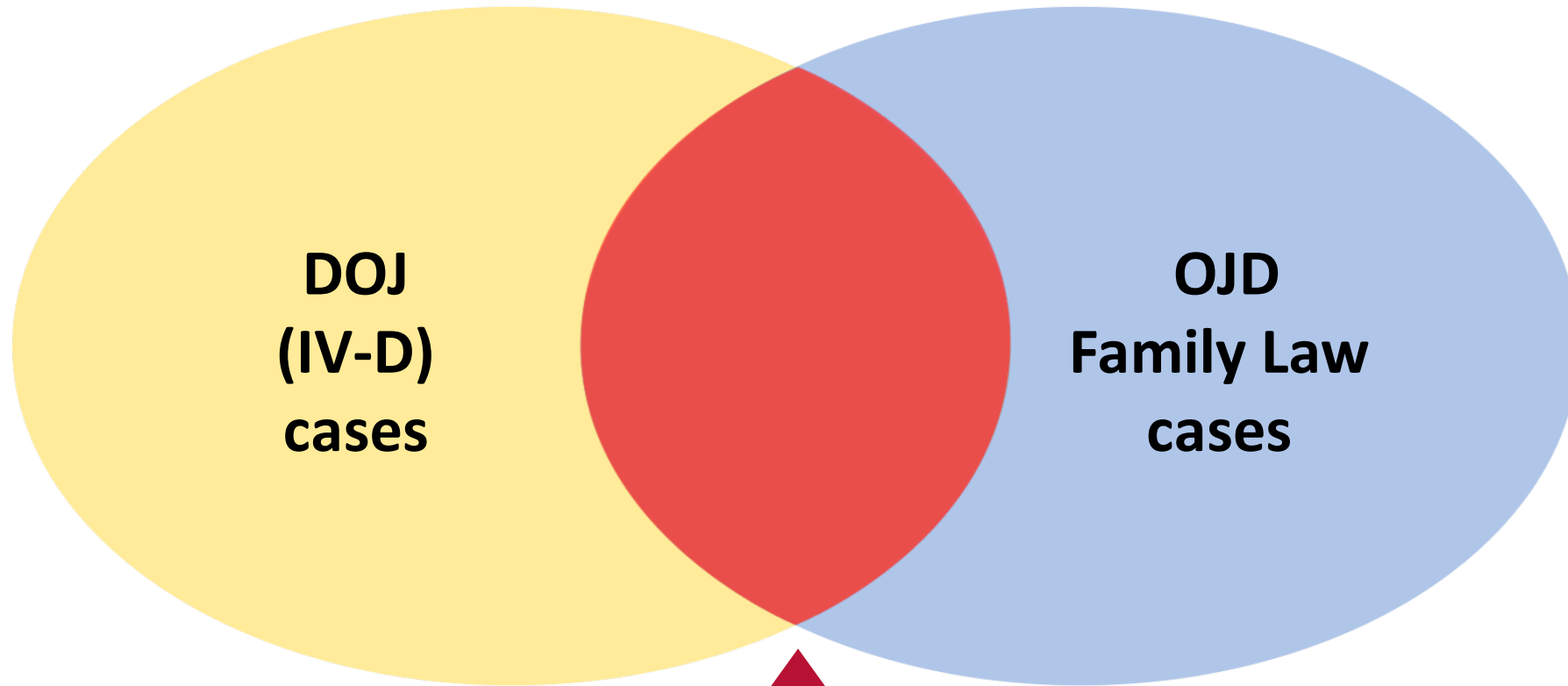
Example: California (very heavy **judicial** approach)

- \$15.2M in IV-D \$ for facilitators -- 42.67 FTE
- \$44.6M in IV-D \$ for Commissioners – 39.8 FTE

Versus: Washington (more balanced between **judicial & administrative**)

- \$7.2 M in IV-D funds for court clerks
- almost \$2M in IV-D funds for Commissioners

Identifying IV-D cases in OJD's Case Management System



What court cases are we talking about for which OJD can get 66% reimbursement?

What are the IV-D cases in the courts?

- Filed by the AAG or DA

- Docketing of agency orders
- Registering of foreign orders
- Contempt complaints and probation hearings
- Motions for security intercept, judgment debtor exams, auxiliary venue, resolve governing order, etc.
- De Novo appeals of agency order
- More . . .

- Filed by private attorney or SRL

- Some dissolutions/separations & RDPs
- Some 109.103 Unmarried Parent cases
- Some support modifications of disso/RDP/109.103
- Some contempts seeking remedial sanctions for nonpayment of support

**ALL are
IV-D Cases**

**Only if family is
(or will be) on IV-D &
court case involves
child support**

**Potential Pool
of IV-D Cases**

In the “potential pool” of privately-filed cases, remember:

Some people are ***required to be on the Oregon Child Support Program***, because of federal law—

- Already on the IV-D system before they file a court case

All others have a ***choice about using the Child Support Program*** —

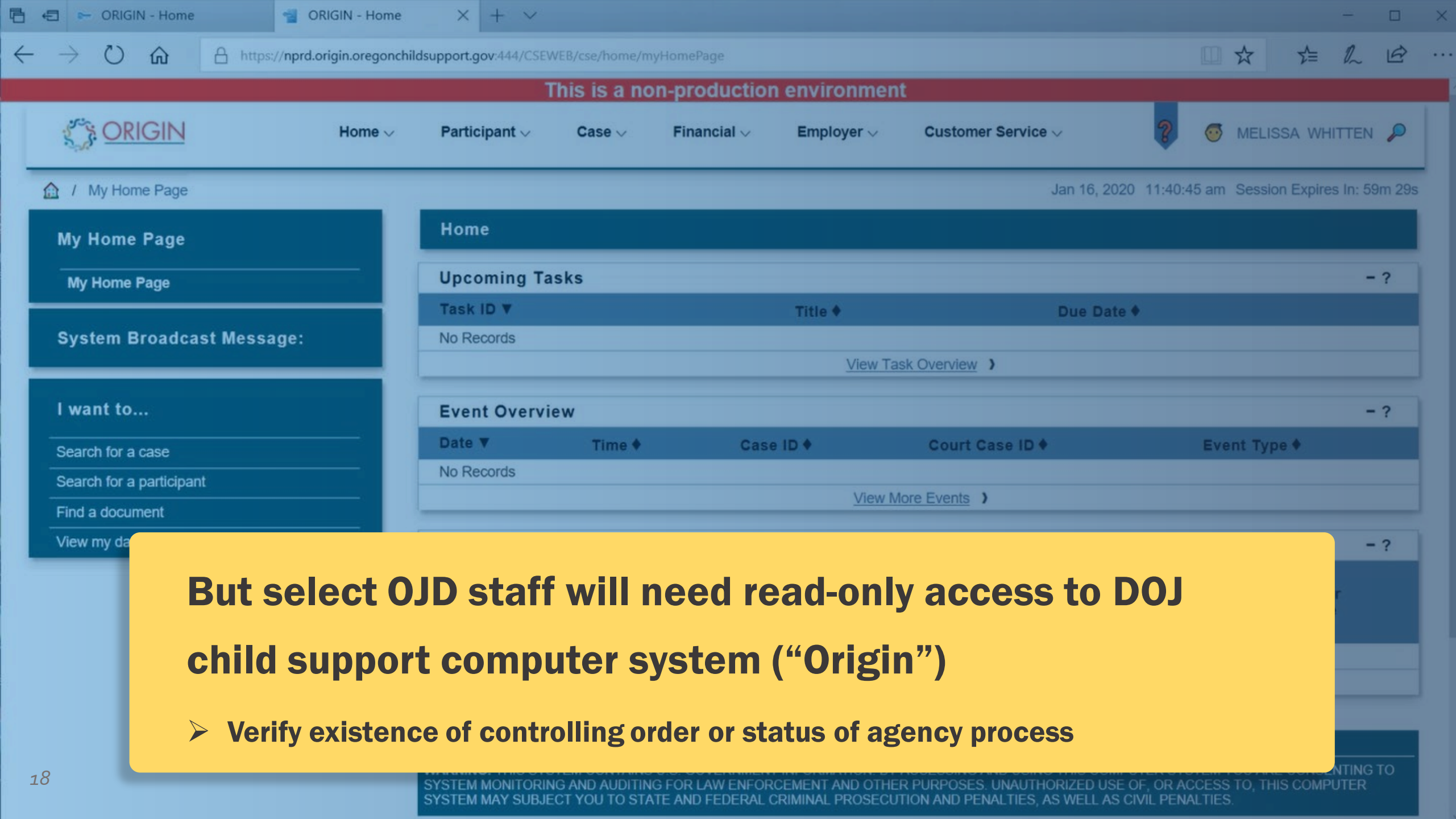
- Could become a IV-D case by applying during court case, or in petition or judgment

Therefore OJD needs a “IV-D identifier” in Odyssey so we know on which cases we can recover for data entry work

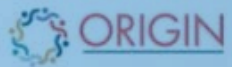
So, how do we identify the IV-D cases which court staff are working on?

- interface between DOJ and OJD computers
- then use Odyssey-report based system as basis for reimbursement, rather than staff timesheets

Discussions — exploring plan for regular “**data dumps**” from DOJ computer into OJD data “warehouse”



This is a non-production environment



- Home
- Participant
- Case
- Financial
- Employer
- Customer Service

MELISSA WHITTEN

My Home Page

Jan 16, 2020 11:40:45 am Session Expires In: 59m 29s

My Home Page

My Home Page

System Broadcast Message:

I want to...

Search for a case

Search for a participant

Find a document

View my data

Home

Upcoming Tasks

Task ID	Title	Due Date
No Records		

[View Task Overview](#)

Event Overview

Date	Time	Case ID	Court Case ID	Event Type
No Records				

[View More Events](#)

But select OJD staff will need read-only access to DOJ child support computer system ("Origin")

- **Verify existence of controlling order or status of agency process**

Oregon's IV-D Project

OJD + DOJ Collaboration

Has 3 phases (to start):

1. Data Entry
2. Remote/Centralized Child Support Facilitation
3. Referees





1. Data Entry

- Reimbursement for **data entry** of documents related to initiating parentage/support order, scheduling and notifying of hearings, & processing orders or judgments

Formula:

of IV-D cases with specific data entry function (e.g., motion for auxiliary venue)
x **Average data entry time**
x **Average data-enter compensation**

Time Trials

“Data Entry” component of project has a **staged approach**

1. Do “publicly filed” (AAG/DA) cases first:
 - already easily identifiable in Odyssey w/in “Party Info”
2. Do “privately filed” cases (private attorney or SRL) second:
 - court staff needs to enter an **IV-D identifier** in the Odyssey case, from DOJ data dump.

(Second point continued on next slide)

“Data Entry” component of project has a **staged approach**

2. Do “privately filed” cases (private attorney or SRL) second (*cont.*):

Additional way to identify IV-D cases for Odyssey—**DOWNSTREAM** approach that requires

“Pay to DOJ” indication in the Money Award Section of the Judgment

2021 legislation, effective 9/25/21

- “Pay to DOJ” not perfect indicator of “IV-D case” because application is still needed
- OJD model forms will likely **add IV-D application option to Petition** to maximize opportunity to opt into IV-D

Optional: APPLICATION FOR FULL CHILD SUPPORT PROGRAM SERVICES
By signing below, I apply for child support services, including enforcement, from the Child Support Program (CSP). If you never received TANF, tribal TANF or AFDC in any state, an annual \$35 fee will apply if over \$550 is collected and distributed to the family each year.

_____ Petitioner Signature	_____ Date
_____ Respondent Signature	_____ Date
_____ Adult Child Signature	_____ Date

An aside—how is child support paid *now* in Oregon judgments?

- “Eyes-on” review of 1000 Odyssey judgments in 5 counties – MUL, WAS, MAR, DES, UMA
- 3 primary “private” case-types
 - **Marital Dissolution** – General Judgments in 450 random cases
 - **Unmarried Parent Petition** – General Judgments in 300 random cases
 - **Modification (of either)** – Supplemental Judgments in 250 random cases (mod filed in 2019)
- **filtered for:**
 - initiated in 2019 +
 - coded for Minor Child in Home +
 - produced a judgment addressing child support



Not a scientific sampling,
but informative

Ordered \emptyset Child Support

Ordered Payment by
"Alternative Arrangement" (direct deposit, EFT, etc.)

Ordered payment through DOJ

Dissolution

36.5%

26%

37.5%

Unmarried Parents

30%

5.5%

64.5%

Modification of both

14%

14%

72%



2. Central Child Support Facilitators

Only IV-D work, remotely available to local facilitators and their SRL (or represented) customers

- Help identify IV-D-involved parents at outset of case filing
- Help in **running child support calculations** for courts w/o facilitators or with facilitators who don't do worksheets
- Otherwise resource/back-up/facilitate with IV-D issues and child support court forms

“central” ≠ Salem-based, just part of JFCPD unit; could be based anywhere

Recent OJD Survey:

1 – No help. Aside from referral to DOJ and OJD websites

2 – Limited help. Does not run calcs but answers Qs, provides handouts, or otherwise provides more help than referral to websites

3 – Full help. Does calculations + produces worksheet for SRL, or oversees SRL doing own calculation

level of facilitator help with child support worksheets—

statewide, population-weighted **score of 2.67** on scale of 1-3



- **Funded last session**
- **Multiple positions**
- **Hirings beginning**

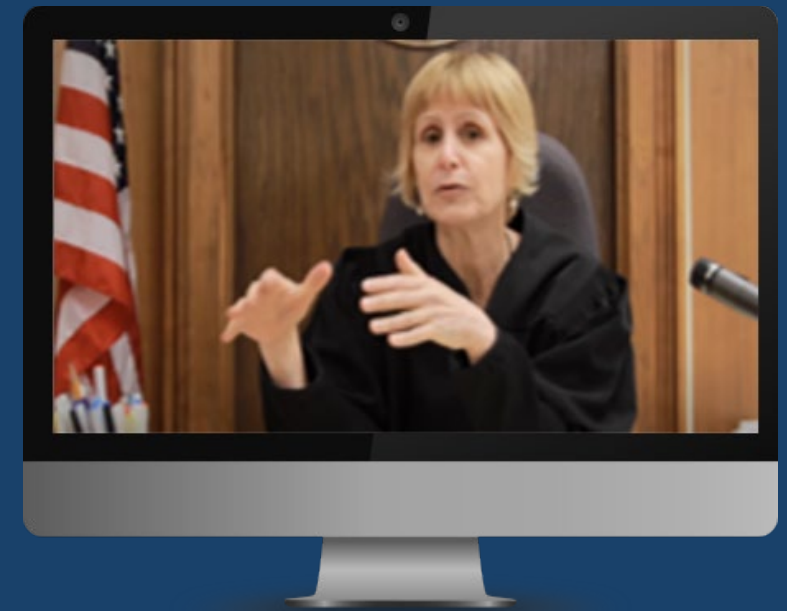


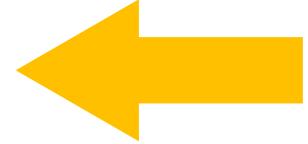
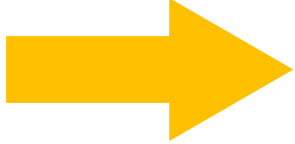
3. Child Support Referee

Avoid
Timesheets

This position would do **only IV-D work**, in-person or remotely, for local courts whose PJ chose to appoint this judicial officer for **dedicated IV-D dockets & paperwork**

- Based on ORS 419A.150, the Juvenile Court Referee statute
- Only assigned *IV-D* matters – contempt/probation, *de novo's*, etc.
- *De Novo* appeal to sitting Circuit Court Judge w/in 45 days, so serving *under* Judge, per federal rule





Docket centralization likely promotes
“**problem-solving**” rather than punitive approach
to state (AAG and DA)-filed contempt cases

- **Multnomah Court Coordinator for IV-D contempt docket –**
 - Works with adjudicated contemnors for job readiness, treatment requirements, and job referrals as probation conditions
 - and with alleged contemnors who volunteer
 - Position already getting IV-D reimbursement
 - Other courts explore similar position?

Enrolled
House Bill 5012

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Oregon Department of Administrative Services)

CHAPTER

AN ACT

Relating to the financial administration of the Judicial Department; and declaring an emergency.

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

SECTION 1. There are appropriated to the Judicial Department, for the biennium beginning July 1, 2021, out of the General Fund, the following amounts, for the following purposes:

(1) Judicial compensation.....	\$ 95,761,823
(2) Operations.....	\$390,601,871
(3) Mandated payments	\$ 17,819,193
(4) State court technology systems	\$ 8,105,672
(5) Debt service.....	\$ 31,438,952
(6) Third-party debt collection.....	\$ 15,970,809

SECTION 2. Notwithstanding any other law limiting expenditures, the following amounts are established for the biennium beginning July 1, 2021, as the maximum limits for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts and including reimbursements from federal service agreements, but excluding lottery funds and federal funds not described in this section, collected or received by the Judicial Department for the following purposes:

(1) Operations.....	\$ 20,626,120
(2) Mandated payments	\$ 711,771
(3) State Court Facilities and Security Account	\$ 8,155,362
(4) State Court Technology Fund...	\$ 17,987,058

SECTION 3. Notwithstanding any other law limiting expenditures, the amount of \$1,478,446 is established for the biennium beginning July 1, 2021, as the maximum limit for payment of expenses from federal funds other than those described in section 2 of this 2021 Act collected or received by the Judicial Department.

SECTION 4. In addition to and not in lieu of any other appropriation, there is appropriated to the Judicial Department, for the biennium beginning July 1, 2021, out of the General Fund, the amount of \$334,221 for payment of expenses of the Oregon Law Commission.

SECTION 5. In addition to and not in lieu of any other appropriation, there is appropriated to the Judicial Department, for the biennium beginning July 1, 2021, out of the General Fund, the amount of \$53,934 for payment of expenses of the Council on Court Procedures.

- **IV-D-dedicated Referee means:**
 - noncompetition w/other dockets -- expedited hearing times?
 - consistent approach to resolution and outcomes
 - *de facto* IV-D SME/trainer/"systems improver" for OJD
- **Funded last legislative session**
- **Bill to codify authority for this judicial officer coming this session**

4. Future Collaboration Focus

Family law facilitation work that is not on a IV-D case but broader in focus:

“educational and outreach activities intended to inform the public, parents and family members about:

- the Child Support Program
- responsible parenting and co-parenting
- family budgeting
- other financial consequences of raising children when the parents are not married to each other”



Compare to
Traditional
Family law facilitation

A decorative arrangement of seven squares on a blue background. Two large yellow squares are positioned at the top left and top right. Two smaller yellow squares are at the bottom left and bottom right. Two small white squares are located in the upper right and lower center areas.

Thank You
and
STAY TUNED!

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SFLAC Conference | September 24, 2021

Oregon Child Support Program

Oregon Judicial Department &
State Family Law Advisory Committee
Family Law Conference



Covering:

- New legislation
- UCCJEA and UIFSA
- Spousal support
- Satisfactions
- State's appearances
- Child Attending School
- Child tax credits and stimulus payments
- Medical support and cash medical
- And more....



US Department of Health & Human Services

Administration for Children & Families

Office of Child Support Enforcement

Oregon Department of Justice

Oregon Child Support Program

DOJ Division of Child Support

22 County District Attorneys





Oregon Department of Justice

Oregon Child Support Program

Supporting Parents to Support Children

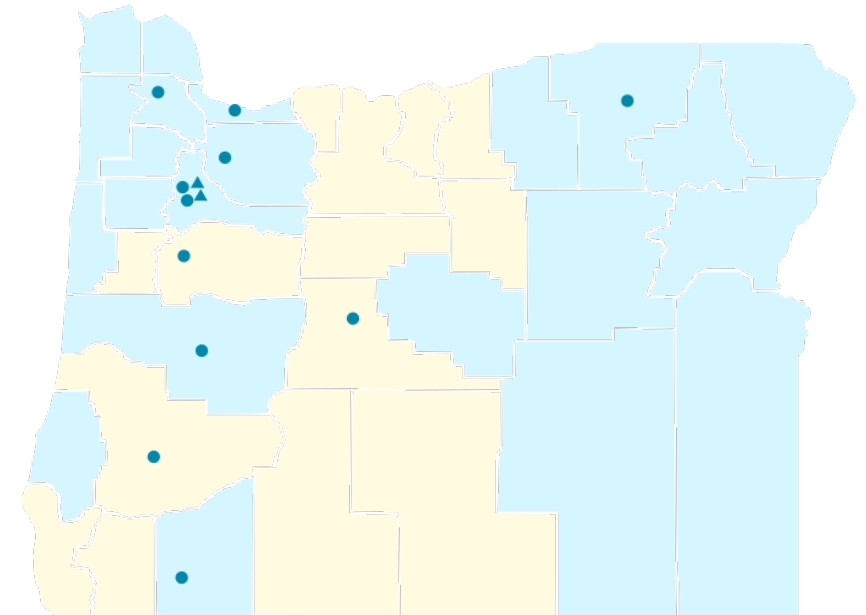
Federal program (Title IV-D) administered by the state through the **Oregon Department of Justice**

11 DOJ Division of Child Support branches operate in all 36 counties

- Albany, Bend, Eugene, Hillsboro, Gresham, Medford, North Salem, Oregon City, Pendleton, Roseburg, and South Salem
- Plus 2 large central offices in Salem

22 county district attorney offices contract with DOJ to provide some child support services in their county

- Baker, Clatsop, Clackamas, Columbia, Coos, Crook, Grant, Harney, Jackson, Lane, Lincoln, Malheur, Marion, Morrow, Multnomah, Polk, Tillamook, Umatilla, Union, Wallowa, Washington, and Yamhill



- County where DA contracts with DOJ to provide at least some child support services
- DCS Branch
- ▲ DCS Central Office

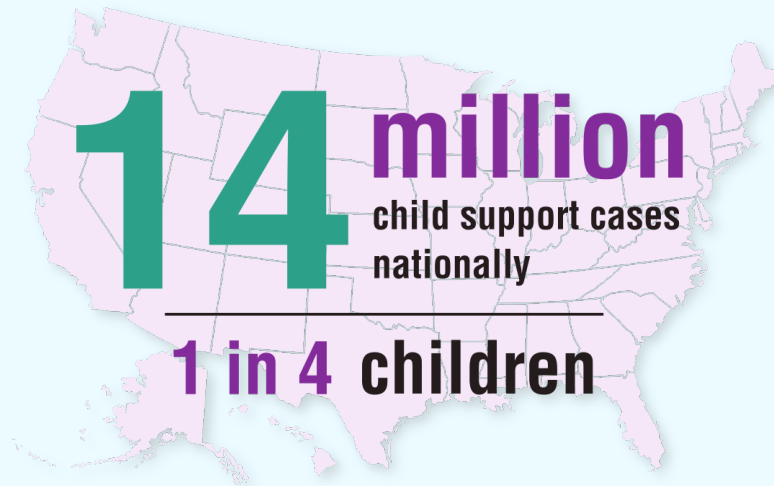
167,389
child support cases

164,857
children 21 and younger

163,204
children 18 and younger

19%
of children in Oregon

By the numbers:



Public Programs in Oregon with the most child participants:

1. Public Schools
2. Oregon Health Plan
3. SNAP (food stamps)
4. Oregon Child Support Program

\$367.4 million annual collections
\$1.4 million daily collections
75% collected through income withholding



93% goes to families
7% reimbursed public assistance

Senate Bill 817

Sponsored by COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION

SUMMARY

Following summary is not prepared by the sponsors of the measure and is not a part of the body thereof for consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Eliminates fees, court costs and fines associated with juvenile delinquency matters. Provides for appointment of court-appointed counsel at state expense in all juvenile delinquency matters. Eliminates parental support obligation for youths, youth offenders or young persons in state custody retroactively, rendering as satisfied judgments with outstanding balances and waiving interest, fees and collection expenses on those balances. Effective on 91st day following adjournment sine die.

A BILL FOR AN ACT

Eliminates parental obligations arising out of juvenile delinquency matters; creating new ORS 1.188, 1.202, 18.005, 18.205, 18.375, 18.385, 18.398, 21.135, 25.020, 25.240, 25.247, 25.280, 25.287, 25.321, 25.511, 25.527, 25.720, 87.450, 107.108.110, 109.015, 109.100, 109.103, 109.165, 125.025, 151.216, 151.63A.030, 163A.035, 163A.130, 163A.135, 339.065, 339.095, 339.056, 419B.400, 419B.552, 419C.020, 419C.200, 419C.023, 419C.380, 419C.446, 419C.473, 419C.475, 419C.610, 420.065, 420.525, 420A.206, 471.430, 471.432, and ORCP 78 C; repealing ORS 419C. and 419C.600; and prescribing an

Senate Bill 817 OYA & Child Support

Eliminates fees, court costs, and fines associated with juvenile delinquency matters

Eliminates statutes requiring an application for child support services, and assignment and collection of child support for a child in custody of the Oregon Youth Authority (OYA)

*Effective September 25, 2021 –
Operative January 1, 2022*

Senate Bill 817

Sponsored by COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION

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Senate Bill 822

Sponsored by COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof submitted for consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

This bill consolidates unpaid child support accruing under superseded child support order into amounts payable under later-issued court order.

A BILL FOR AN ACT

relating to child support; amending ORS 25.095.

Enacted by the People of the State of Oregon:

Section 25.095 is amended to read:

Section 25.095 in this section:

"Child support" has the meaning given that term in ORS 25.010.

"Superseded" has the meaning given that term in ORS 25.089.

Notwithstanding the provisions of ORS 25.089, 25.091 and 25.531 to the contrary, the terms of a child support order issued under ORS 25.529 are terminated by the terms of a later-issued court order if:

(a) The later-issued court order involves the same obligor and child and the same period of time as the earlier-issued court order; ORS 25.080;

(b) The later-issued court order involves the same obligor and child and the same period of time as the earlier-issued court order; ORS 25.080;

(c) The later-issued court order involves the same obligor and child and the same period of time as the earlier-issued court order; ORS 25.080;

(d) The later-issued court order involves the same obligor and child and the same period of time as the earlier-issued court order; ORS 25.080;

(e) The later-issued court order involves the same obligor and child and the same period of time as the earlier-issued court order; ORS 25.080;

(f) The later-issued court order involves the same obligor and child and the same period of time as the earlier-issued court order; ORS 25.080;

(g) The later-issued court order involves the same obligor and child and the same period of time as the earlier-issued court order; ORS 25.080;

(h) The later-issued court order involves the same obligor and child and the same period of time as the earlier-issued court order; ORS 25.080;

(i) The later-issued court order involves the same obligor and child and the same period of time as the earlier-issued court order; ORS 25.080;

(j) The later-issued court order involves the same obligor and child and the same period of time as the earlier-issued court order; ORS 25.080;

(k) The later-issued court order involves the same obligor and child and the same period of time as the earlier-issued court order; ORS 25.080;

(l) The later-issued court order involves the same obligor and child and the same period of time as the earlier-issued court order; ORS 25.080;

(m) The later-issued court order involves the same obligor and child and the same period of time as the earlier-issued court order; ORS 25.080;

(n) The later-issued court order involves the same obligor and child and the same period of time as the earlier-issued court order; ORS 25.080;

(o) The later-issued court order involves the same obligor and child and the same period of time as the earlier-issued court order; ORS 25.080;

(p) The later-issued court order involves the same obligor and child and the same period of time as the earlier-issued court order; ORS 25.080;

(q) The later-issued court order involves the same obligor and child and the same period of time as the earlier-issued court order; ORS 25.080;

(r) The later-issued court order involves the same obligor and child and the same period of time as the earlier-issued court order; ORS 25.080;

Senate Bill 822

Consolidating Debt

- Consolidates unpaid child support accruing under a superseded child support order into amounts payable under a later-issued court order (ORS 25.095).
- Fine-tunes the process of treating a later-issued court order, for the same family unit, as terminating an earlier-issued administrative order.
- Easier for families, easier for the program
- Effective January 1, 2022

Senate Bill 821

Sponsored by COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION

SUMMARY

Following summary is not prepared by the sponsors of the measure and is not a part of the body thereof for consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Creates process to rebut presumption of inability to pay support order after support order is suspended and procedure upon reinstatement following rebuttal of presumption. Declares that rebuttal of previously suspended support order is considered substantial change of circumstances for purposes of child support modification proceedings. Delays support order modification proceedings until reinstatement of suspended support order.

A BILL FOR AN ACT

relating to child support orders; amending ORS 25.247, 25.287 and 25.527.

The People of the State of Oregon:

Section 25.247 is amended to read:

A person who is incarcerated for a period of 180 or more consecutive days shall

not be required to pay child support and a child support obligation does not accrue

during the period of incarceration unless the presumption is rebutted as provided in this section.

The Department of Corrections shall enter into an agreement with the

Department of Justice described in subsection (1) of this section.

The Department of Justice described in subsection (1) of this section shall

ensure that, due to incarceration, the enforcement of child support

orders is not

Senate Bill 821

Incarcerated Obligor

- Can rebut the presumption of inability to pay support *after* an order has been suspended
- Clarifies the procedure upon reinstatement following rebuttal of the presumption
- Amends ORS 25.247 to permit reinstatement of support before the original suspension period has passed and for obligation to be reassessed based on parent's new circumstances
- In determining whether presumption has been rebutted, court or ALJ must consider the expenses obligor will incur reintegrating into society following release
- Effective January 1, 2022

Jurisdiction

UIFSA	UCCJEA
<i>Uniform Interstate Family Support Act</i>	<i>Uniform Child Custody Jurisdiction & Enforcement Act</i>
Governs coordination and enforcement of child support when one state has issued child support order and one or both parents have now moved to another state	Controls subject matter jurisdiction for child custody —a proceeding in which legal custody, physical custody, parenting time or visitation with respect to a child is an issue
Provides a similar process when the parties are living in different countries	Jurisdiction to adjudicate child custody does not confer jurisdiction to adjudicate child support
An Oregon court may not modify another state’s order registered in Oregon, unless conditions in ORS 110.632 are satisfied	You can waive personal jurisdiction, but you can’t waive subject matter jurisdiction
Oregon adopted UIFSA 2008 in 2015 – ORS Chapter 110	Codified in 1999 at ORS 109.701 et seq

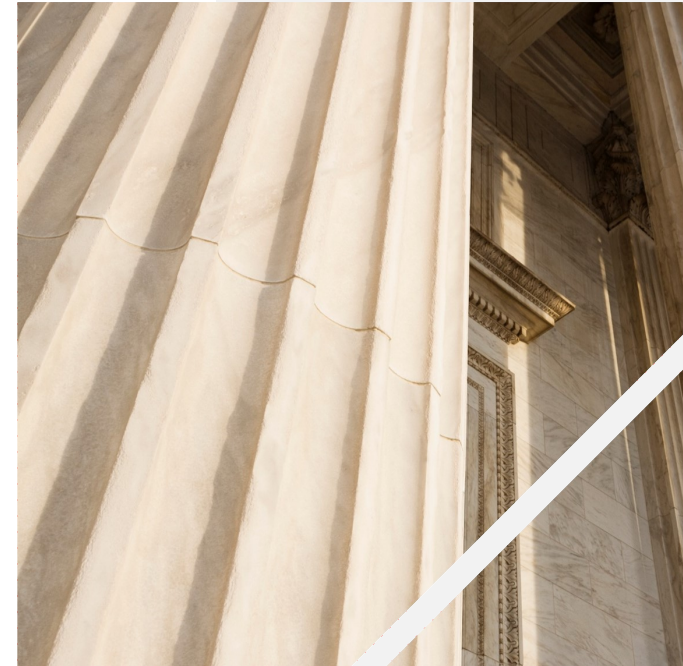
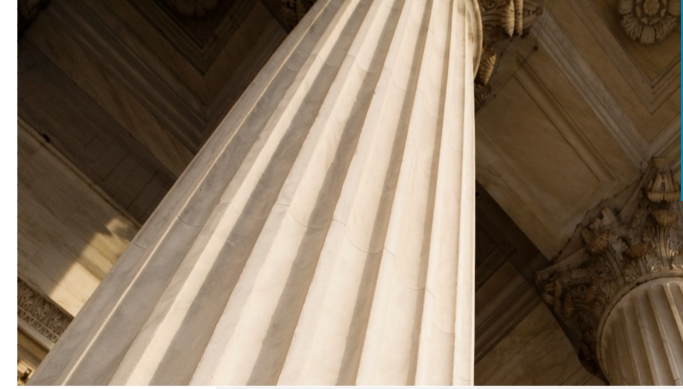
State's Appearance

- When pleading served on State, may opt to file an appearance in case
- Authorized by UTCR 8.010(5)
- State will:
 - Advise court of financial interest in case
 - Request order in accordance with guidelines
- Consider State's interest when preparing judgment



State's Appearance

- If existing administrative order, to avoid multiple orders either:
 - Have judgment defer to existing administrative order.
 - **Do not order child support, cash medical support, or health care coverage**
 - Have judgment expressly terminate or modify the existing administrative order.
 - Be clear about what happens to arrears—**do not satisfy arrears owed to State**



Spousal Support



- Oregon Child Support Program discontinuing enforcement of spousal support only cases, except as provided by ORS 25.381(2)(b)
- Federal and state law require the child support program to enforce spousal support when recipient has custody of children for whom program is enforcing child support
- ORS 25.080 permits the Oregon Child Support Program to enforce spousal support under any other circumstances
 - But this work is not eligible for matching federal money—every \$1 spent enforcing spousal support only is \$3 not spent enforcing child support
- Self-help: Developing income withholding motion and order to maintain on website

Satisfactions

ORS 18.228

Satisfactions of Support Awards Payable to Department of Justice

Support awards payable to the Oregon Department of Justice must be mailed to or delivered to DOJ, not the court administrator

- If the Oregon Child Support Program is providing services, satisfaction must be sent to DOJ for approval *before* being submitted to the court
- Original can be mailed to:
Oregon Child Support Program, PO Box 14680, Salem, OR 97309 or dropped off at a local office—we review and forward to court

Note: If a satisfaction is filed in court without the program's knowledge, it will be honored unless it satisfied debt owed to the state—in which case, it may be set aside.



Full Satisfaction

- The program accepts and processes full satisfactions when current support is no longer due.
- **Program position:** A full satisfaction prohibits the establishment of future child support for the same judgment creditor.
- ORS 18.232 provides process for DOJ to satisfy judgment owed to obligee when judgment has been paid in full.
- Obligee can't satisfy a CAS's right to receive support.





Child Tax Credits & Stimulus Payments

- Only the first stimulus payment was subject to offset for arrears
- Enhanced child tax credits
- Advance payments are not subject to offset for arrears
- Balance in 2021 tax refund are subject to offset
- Stimulus payments and child tax credits not considered income for child support purposes



Medical Support / Health Care Coverage / Cash Medical

- Sometimes the Oregon Child Support Program requests amendment of judgments to remove health care coverage requirements in private actions
 - ORS 25.010(3) and ORS 25.323(2) clarify that health care coverage is child support.
 - Additionally, Oregon law does not distinguish between private and public health care coverage – both are considered “appropriate.”
- If a family already has an administrative child support order and is later getting a divorce, they often mark the appropriate boxes to omit child support from their divorce and defer to the prior order.
 - However, they also mark the box indicating that one or both parents should enroll the children in public health care coverage.
 - This creates multiple child support orders for the same family.
- If a family is attempting to defer to an existing child support order, they should defer on *both* cash child support and medical support terms.

Cash Medical and OHP

- Oregon Health Authority (OHA) not referring any Oregon Health Plan cases to DOJ Division of Child Support for cost recovery
- OHA can't receive / apply money on existing cases
 - If cash medical in existing order, it's passed through to obligee even if kids on Oregon Health Plan
 - **No need to include cash medical support just because children on Oregon Health Plan**
- Even if healthcare coverage available, can use rebuttal to include cash medical *if uninsured medical expenses are expected for child*
- **Current:** Oregon Child Support Program *does not* include cash medical. We include this finding in order:
 - No cash medical support is ordered because the State of Oregon is not asserting an interest in cash medical and there is no evidence of predictable recurring uninsured medical expenses for the children

Child Attending School

- ORS 107.108 permits ordering one or both parents to pay support for child attending school
 - No limitation in statute about when it must be ordered
 - The Oregon Child Support Program does not establish orders for children after 18th birthday
- Any 18-, 19- or 20-year-old unmarried child is a necessary party for any judicial proceeding in which support is an issue
- Regardless whether they qualify as child attending school



Child Attending School

- Any 18-, 19-, or 20-year-old unmarried child may:
 - Request to be notified of any administrative proceeding that may affect rights of child attending school
 - Request to be a party
- To receive notice, child must provide address to the Oregon Child Support Program
- To be a party, child must send written request to the program within 30 days of date of notice



Guidelines & Calculator

- Guidelines review delayed due to pandemic
- Will involve new economic study
- Welcome input on areas for improvement
 - Will focus on ability to pay
- Calculator is the application of the guidelines



National Issues & Trends

**Pandemic
impacts**

Ability to pay

Equity

**Move away
from welfare
recovery**

**Parenting
time orders**

Oregon Child Support Program presenters

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Enrolled Senate Bill 817

Sponsored by COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION

CHAPTER

AN ACT

Relating to monetary obligations arising out of juvenile delinquency matters; creating new provisions; amending ORS 1.202, 18.005, 18.205, 18.375, 18.385, 18.398, 21.135, 25.020, 25.080, 25.089, 25.091, 25.100, 25.240, 25.247, 25.280, 25.287, 25.321, 25.511, 25.517, 25.527, 25.720, 87.450, 107.085, 107.106, 107.135, 107.431, 108.110, 109.015, 109.100, 109.103, 109.165, 125.025, 151.216, 151.219, 151.225, 153.111, 153.657, 163A.030, 163A.035, 163A.130, 163A.135, 339.065, 339.095, 339.990, 418.034, 418.475, 419A.211, 419A.256, 419B.400, 419B.552, 419C.020, 419C.200, 419C.206, 419C.230, 419C.245, 419C.303, 419C.315, 419C.323, 419C.380, 419C.446, 419C.473, 419C.475, 419C.535, 419C.540, 419C.570, 419C.573, 419C.575, 420.065, 420.525, 471.430, 471.432 and 813.030 and section 1, chapter 89, Oregon Laws 2012, and ORCP 78 C; repealing ORS 419C.203, 419C.449, 419C.459, 419C.590, 419C.592, 419C.595, 419C.597 and 419C.600 and section 3, chapter ___, Oregon Laws 2021 (Enrolled Senate Bill 436); and prescribing an effective date.

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

NOTE: Section 1 was deleted by amendment. Subsequent sections were not renumbered.

TRUANCY FEES

SECTION 2. ORS 339.990 is amended to read:

339.990. Violation of [*ORS 339.020 or*] the requirements of ORS 339.035 is a Class C violation.

SECTION 3. ORS 339.095 is amended to read:

339.095. (1) In addition to any other persons permitted to enforce violations, the school district superintendent or education service district superintendent, or any employee specifically designated by either superintendent, may issue citations for violations established under ORS 339.990 in the manner provided by ORS chapter 153.

(2) Prior to issuing the citation described in subsection (3) of this section to the parent or guardian of a student not regularly attending full-time school, a school district superintendent or education service district superintendent shall:

(a) Provide a parent or guardian of the student and the student with written notification that:

(A) States that the student is required to attend regularly a full-time school;

[(B) Explains that the failure to send the student and maintain the student in regular attendance is a Class C violation;]

[(C)] (B) States that the superintendent may issue a citation;

[(D)] (C) Requires the parent or guardian of the student and the student to attend a conference with a designated official;

[(E)] (D) States that the parent or guardian has the right to request:

(i) For a student who does not have an individualized education program, an evaluation to determine if the student should have an individualized education program; or

(ii) For a student who has an individualized education program, a review of the individualized education program; and

~~[(F)]~~ **(E)** Is written in the native language of the parent or guardian of the student.

(b) Schedule the conference described in paragraph ~~[(a)(D)]~~ **(a)(C)** of this subsection. A conference may not be scheduled until after any evaluations or reviews described in paragraph ~~[(a)(E)]~~ **(a)(D)** of this subsection have been completed.

(3) Notwithstanding ORS 1.525 or any provision of ORS chapter 153, the State Board of Education by rule shall establish the citation form to be used by superintendents in citing violations established under ORS 339.990. Notwithstanding ORS 153.045, each of the parts of the citation shall contain the information required by the state board.

SECTION 4. ORS 153.111 is amended to read:

153.111. (1) Upon entry of a conviction for a traffic offense, the court shall forward to the Department of Transportation an abstract of conviction in the manner required by ORS 810.375, and a copy of the judgment, if required, under the provisions of ORS 810.375.

(2) Upon entry of a conviction for violation of any provision of the wildlife laws or commercial fishing laws, or any rule promulgated pursuant to those laws, the court that enters the judgment of conviction shall forward to the Department of State Police an abstract of conviction.

~~[(3) Upon entry of a conviction for a compulsory school attendance violation under ORS 339.095, the court shall forward to the Department of Education an abstract of conviction.]~~

~~[(4)]~~ **(3)** Upon entry of a conviction for violation of a weights and measures law subject to penalty under ORS 618.991, the court shall forward to the State Department of Agriculture an abstract of conviction.

~~[(5)]~~ **(4)** Upon entry of a conviction of a boating offense, as defined in ORS 830.005, the court shall forward to the State Marine Board an abstract of conviction.

~~[(6)]~~ **(5)** A court may destroy any abstract not required to be forwarded to an agency under the provisions of this section.

FINES, FEES AND COSTS; COURT-APPOINTED COUNSEL

SECTION 5. Section 6 of this 2021 Act is added to and made a part of ORS chapter 419C.

SECTION 6. (1) A court may not assess any fee or fine under ORS 137.533, 137.540, 409.220, 809.267 or 813.240 arising out of the actions of a person who:

(a) Was under 18 years of age at the time of the act or is subject to juvenile court probation; and

(b) Was not waived to circuit court for prosecution as an adult under ORS 419C.340.

(2) The fees and fines described in subsection (1) of this section may not be assessed against the child, youth, youth offender, young person or, if the fee or cost would be assessed after the person attains the age of 18, the person, or against the parent or guardian of the child, youth, youth offender, young person or person.

SECTION 7. ORS 1.202 is amended to read:

1.202. (1) All circuit courts and appellate courts of this state, and all commissions, departments and divisions in the judicial branch of state government, shall add a fee of not less than \$50 and not more than \$200 to any judgment that includes a monetary obligation that the court or judicial branch is charged with collecting. The fee shall cover the cost of establishing and administering an account for the debtor and shall be added without further notice to the debtor or further order of the court. The fee shall be added only if the court gives the defendant a period of time in which to pay the obligation after the financial obligation is imposed. Fees under this subsection shall be deposited in the General Fund.

(2) All circuit courts and appellate courts of this state, and all commissions, departments and divisions in the judicial branch of state government, that use private collection agencies, the De-

partment of Revenue or an offset of federal tax refunds pursuant to an agreement entered into under ORS 1.196 shall add a fee to any judgment referred for collection that includes a monetary obligation that the state court or the commission, department or division is charged with collecting. A fee to cover the costs of collecting judgments referred to the private collection agency, the Department of Revenue, the United States Financial Management Service or the Internal Revenue Service shall be added to the monetary obligation without further notice to the debtor or further order of the court. The fee may not exceed the actual costs of collecting the judgment.

(3) The fees described in subsections (1) and (2) of this section may not be added to any order or judgment arising from the actions of a person who:

(a) Was under 18 years of age at the time of the act or is subject to juvenile court probation; and

(b) Was not waived to circuit court for prosecution as an adult under ORS 419C.340.

[(3)] (4) The Chief Justice of the Supreme Court may authorize courts to waive or suspend the fees required to be added to judgments under this section. Except to the extent authorized by the Chief Justice, a court may not waive or suspend the fees required to be added to judgments under this section.

SECTION 8. ORS 21.135 is amended to read:

21.135. (1) Unless a specific fee is provided by subsection (3) of this section or other law for a proceeding, a circuit court shall collect a filing fee of \$281 when a complaint or other document is filed for the purpose of commencing an action or other civil proceeding and when an answer or other first appearance is filed in the proceeding.

(2) **Except as provided in subsection (4) of this section,** the filing fee established by subsection (1) of this section applies to:

(a) Proceedings in which only equitable remedies are sought.

(b) Appeals from a conviction of a violation in justice or municipal courts as provided in ORS 21.285.

(c) Interpleader actions.

(d) Actions relating to a trust.

(e) Proceedings for judicial review of an agency order.

(f) Declaratory judgment actions.

(g) Any other action or proceeding that is statutorily made subject to the fee established by this section and any other civil proceeding for which a specific filing fee is not provided.

(3)(a) The circuit court shall collect a filing fee of \$263 in adoption cases under ORS chapter 109, excluding readoptions under ORS 109.385, when a petition is filed for the purpose of commencing an adoption proceeding or when any other document or other first appearance is filed in the proceeding. The fee shall include the cost of issuing one or more certificates of adoption under ORS 109.410.

(b) When separate petitions for adoption of multiple minor children are concurrently filed under ORS 109.309 by the same petitioner, one filing fee shall be charged for the first petition filed and the filing fees for concurrently filed petitions shall not be charged.

(4) The filing fee established under subsection (1) of this section does not apply to:

(a) Expunction proceedings under ORS 419A.262;

(b) Petitions under ORS 163A.130 or 163A.135 for an order relieving the person from the duty to report as a sex offender if the person is required to report under ORS 163A.025; or

(c) Any juvenile delinquency proceeding arising under ORS chapter 419B or 419C.

SECTION 9. ORS 151.216 is amended to read:

151.216. (1) The Public Defense Services Commission shall:

(a) Establish and maintain a public defense system that ensures the provision of public defense services in the most cost-efficient manner consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.

(b) Establish an office of public defense services and appoint a public defense services executive director who serves at the pleasure of the commission.

(c) Submit the budget of the commission and the office of public defense services to the Legislative Assembly after the budget is submitted to the commission by the director and approved by the commission. The Chief Justice of the Supreme Court and the chairperson of the commission shall present the budget to the Legislative Assembly.

(d) Review and approve any public defense services contract negotiated by the director before the contract can become effective.

(e) Adopt a compensation plan, classification system and personnel plan for the office of public defense services that are commensurate with other state agencies.

(f) Adopt policies, procedures, standards and guidelines regarding:

(A) The determination of financial eligibility of persons entitled to be represented by appointed counsel at state expense;

(B) The appointment of counsel, **including the appointment of counsel at state expense regardless of financial eligibility in juvenile delinquency matters;**

(C) The fair compensation of counsel appointed to represent a person [*financially*] eligible for appointed counsel at state expense;

(D) Appointed counsel compensation disputes;

(E) Any other costs associated with the representation of a person by appointed counsel in the state courts that are required to be paid by the state under ORS 34.355, 135.055, 138.500, 138.590, 161.346, 161.348, 161.365, 419A.211, 419B.201, 419B.208, 419B.518, 419B.908, 419C.206, 419C.209, 419C.408, 419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or 436.315 or any other provision of law that expressly provides for payment of such compensation, costs or expenses by the commission;

(F) Professional qualifications for counsel appointed to represent public defense clients;

(G) Performance for legal representation;

(H) The contracting of public defense services;

(I) Contracting with expert witnesses to allow contracting with out-of-state expert witnesses only if in-state expert witnesses are not available or are more expensive than out-of-state expert witnesses; and

(J) Any other matters necessary to carry out the duties of the commission.

(g) Establish a peer review system for the approval of nonroutine fees and expenses incurred in cases involving aggravated murder and the crimes listed in ORS 137.700 and 137.707. The review shall be conducted by a panel of attorneys who practice in the area of criminal defense.

(h) Establish a complaint process that allows district attorneys, criminal defense counsel and the public to file complaints concerning the payment from public funds of nonroutine fees and expenses incurred in cases.

(i) Reimburse the State Court Administrator from funds deposited in the Public Defense Services Account established by ORS 151.225 for the costs of personnel and other costs associated with location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State Court Administrator.

(2) Policies, procedures, standards and guidelines adopted by the commission supersede any conflicting rules, policies or procedures of the Public Defender Committee, State Court Administrator, circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Review Board related to the exercise of the commission's administrative responsibilities under this section and transferred duties, functions and powers as they occur.

(3) The commission may accept gifts, grants or contributions from any source, whether public or private. However, the commission may not accept a gift, grant or contribution if acceptance would create a conflict of interest. Moneys accepted under this subsection shall be deposited in the Public Defense Services Account established by ORS 151.225 and expended for the purposes for which given or granted.

(4) The commission may not:

(a) Make any decision regarding the handling of any individual case;

(b) Have access to any case file; or

(c) Interfere with the director or any member of the staff of the director in carrying out professional duties involving the legal representation of public defense clients.

SECTION 10. ORS 151.219 is amended to read:

151.219. (1) The public defense services executive director shall:

(a) Recommend to the Public Defense Services Commission how to establish and maintain, in a cost-effective manner, the delivery of legal services to persons entitled to, and, **where applicable**, financially eligible for, appointed counsel at state expense under Oregon statutes, the Oregon Constitution, the United States Constitution and consistent with Oregon and national standards of justice.

(b) Implement and ensure compliance with contracts, policies, procedures, standards and guidelines adopted by the commission or required by statute.

(c) Prepare and submit to the commission for its approval the biennial budget of the commission and the office of public defense services.

(d) Negotiate contracts, as appropriate, for providing legal services to persons [*financially*] eligible for appointed counsel at state expense. No contract so negotiated is binding or enforceable until the contract has been reviewed and approved by the commission as provided in ORS 151.216.

(e) Employ personnel or contract for services as necessary to carry out the responsibilities of the director and the office of public defense services.

(f) Supervise the personnel, operation and activities of the office of public defense services.

(g) Provide services, facilities and materials necessary for the performance of the duties, functions and powers of the Public Defense Services Commission.

(h) Pay the expenses of the commission and the office of public defense services.

(i) Prepare and submit to the commission an annual report of the activities of the office of public defense services.

(j) Prepare and submit to the Legislative Assembly a biennial report on the activities of the office of public defense services.

(k) Provide for legal representation, advice and consultation for the commission, its members, the director and staff of the office of public defense services who require such services or who are named as defendants in lawsuits arising from their duties, functions and responsibilities. If requested by the director, the Attorney General may also provide for legal representation, advice and consultation for the commission, its members, the director and staff of the office of public defense services in litigation.

(2) The director may designate persons as representatives of the director for the purposes of determining and paying bills submitted to the office of public defense services and determining pre-authorization for incurring fees and expenses under ORS 135.055.

SECTION 11. ORS 419A.211 is amended to read:

419A.211. (1) If the child, ward, youth, youth offender, parent or guardian is determined to be entitled to, and, **except as provided in subsection (4) of this section**, financially eligible for, appointment of counsel at state expense in an appeal as provided in ORS 419A.200 and 419A.208, the court, upon request of the person or upon its own motion, shall appoint suitable counsel to represent the person. Counsel appointed by the court shall be paid compensation determined by the public defense services executive director as provided in ORS 135.055 if the circuit court is the appellate court or as provided in ORS 138.500 if the Court of Appeals or the Supreme Court is the appellate court. The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the Public Defense Services Commission.

(2)(a) When the court appoints counsel to represent the child[,] **or** ward, [*youth or youth offender,*] it may order the parent, if able, or guardian of the estate, if the estate is able, to pay to the Public Defense Services Account established by ORS 151.225, through the clerk of the court, in full or in part the administrative costs of determining the ability of the parents or estate to pay for legal services and the costs of the legal and other services that are related to the provision of appointed counsel.

(b) The test of the parent's or estate's ability to pay costs under paragraph (a) of this subsection is the same test as applied to appointment of counsel for defendants under ORS 151.216. If counsel is provided at state expense, the court shall apply this test in accordance with the guidelines adopted by the Public Defense Services Commission under ORS 151.485.

(c) If counsel is provided at state expense, the court shall determine the amount the parents or estate is required to pay for the costs of administrative, legal and other services related to the provision of appointed counsel in the same manner as this amount is determined under ORS 151.487.

(d) The court's order of payment is enforceable in the same manner as an order of support under ORS 419B.408 *[and 419C.600]*.

(3) When the court appoints counsel *[and the child, ward, youth, youth offender, parent or guardian has been determined to be entitled to, and financially eligible for, appointed counsel]* **under this section** at state expense, the compensation for counsel and costs and expenses necessary to the appeal shall be determined and paid as provided in ORS 135.055 if the circuit court is the appellate court or as provided in ORS 138.500 if the Court of Appeals or the Supreme Court is the appellate court.

(4) Notwithstanding subsection (1) of this section, a youth or youth offender, or the parent or guardian of the youth or youth offender, is entitled to court-appointed counsel at state expense under this section regardless of the financial circumstances of the youth or youth offender or the parent or guardian of the youth or youth offender. In addition, the court may not order the youth's or youth offender's parent or guardian to pay any part of the administrative costs of determining the entitlement of the youth, youth offender, parent or guardian to court-appointed counsel at state expense nor any of the costs of the legal and other services that are related to the provision of appointed counsel.

SECTION 11a. If Senate Bill 436 becomes law, section 11 of this 2021 Act (amending ORS 419A.211) is repealed and ORS 419A.211, as amended by section 47, chapter __, Oregon Laws 2021 (Enrolled Senate Bill 436), is amended to read:

419A.211. (1) If the child, ward, youth, adjudicated youth, parent or guardian is determined to be entitled to, and, **except as provided in subsection (4) of this section**, financially eligible for, appointment of counsel at state expense in an appeal as provided in ORS 419A.200 and 419A.208, the court, upon request of the person or upon its own motion, shall appoint suitable counsel to represent the person. Counsel appointed by the court shall be paid compensation determined by the public defense services executive director as provided in ORS 135.055 if the circuit court is the appellate court or as provided in ORS 138.500 if the Court of Appeals or the Supreme Court is the appellate court. The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the Public Defense Services Commission.

(2)(a) When the court appoints counsel to represent the child[,] **or** ward, *[youth or adjudicated youth,]* it may order the parent, if able, or guardian of the estate, if the estate is able, to pay to the Public Defense Services Account established by ORS 151.225, through the clerk of the court, in full or in part the administrative costs of determining the ability of the parents or estate to pay for legal services and the costs of the legal and other services that are related to the provision of appointed counsel.

(b) The test of the parent's or estate's ability to pay costs under paragraph (a) of this subsection is the same test as applied to appointment of counsel for defendants under ORS 151.216. If counsel is provided at state expense, the court shall apply this test in accordance with the guidelines adopted by the Public Defense Services Commission under ORS 151.485.

(c) If counsel is provided at state expense, the court shall determine the amount the parents or estate is required to pay for the costs of administrative, legal and other services related to the provision of appointed counsel in the same manner as this amount is determined under ORS 151.487.

(d) The court's order of payment is enforceable in the same manner as an order of support under ORS 419B.408 *[and 419C.600]*.

(3) When the court appoints counsel *[and the child, ward, youth, adjudicated youth, parent or guardian has been determined to be entitled to, and financially eligible for, appointed counsel]* **under**

this section at state expense, the compensation for counsel and costs and expenses necessary to the appeal shall be determined and paid as provided in ORS 135.055 if the circuit court is the appellate court or as provided in ORS 138.500 if the Court of Appeals or the Supreme Court is the appellate court.

(4) Notwithstanding subsection (1) of this section, a youth or adjudicated youth, or the parent or guardian of the youth or adjudicated youth, is entitled to court-appointed counsel at state expense under this section regardless of the financial circumstances of the youth or adjudicated youth or the parent or guardian of the youth or adjudicated youth. In addition, the court may not order the youth's or adjudicated youth's parent or guardian to pay any part of the administrative costs of determining the entitlement of the youth, adjudicated youth, parent or guardian to court-appointed counsel at state expense nor any of the costs of the legal and other services that are related to the provision of appointed counsel.

SECTION 12. ORS 419C.020 is amended to read:

419C.020. (1) At the first appearance by the parents or guardian of a youth before the court, the court shall inform the parents or guardian verbally and provide a standard notice describing:

[(a) The obligation of the parents or guardian to pay for compensation and reasonable expenses for counsel for the youth, support of the youth while the youth is in the custody of a state-financed or state-supported residence and any other obligations to pay money that may arise as a result of the youth being within the jurisdiction of the court;]

[(b) The assignment of support rights under ORS 419C.597;]

(a) The youth's right to court-appointed counsel at state expense;

[(c) (b) The right of the parents or guardian to appeal a decision on jurisdiction or disposition made by the court; [and]

[(d) (c) The time for filing an appeal of a decision by the court[.];]

(d) That neither the youth nor the youth's parents or guardian may be asked or ordered to pay administrative costs associated with the youth's involvement with the court, probation, detention or Oregon Youth Authority services, including but not limited to applications for court-appointed counsel, court-appointed counsel attorney fees and costs associated with legal representation, collection referral fees, transaction assessments, copy fees, fees for applications for expunction of records, juvenile sex offender reporting fees, electronic payment fees or fees for checks that are returned for insufficient funds; and

(e) The court's obligation to consider assessment of restitution, including establishing a payment schedule and finding satisfaction of a restitution judgment, under ORS 419C.450.

(2) The *[Oregon Youth Authority]* **Judicial Department** shall prepare and provide the standard notice required under subsection (1) of this section.

(3) The court shall place a notation in the record of the case of the date that the parents or guardian were provided information under this section.

SECTION 13. ORS 419C.200 is amended to read:

419C.200. (1)(a) When a petition is filed under ORS 419C.005, the court:

(A) Shall appoint counsel to represent the youth at all stages of the proceeding if the offense alleged in the petition is classified as a crime.

(B) Shall appoint counsel for the youth at any proceeding concerning an order of probation.

(C) Notwithstanding subparagraph (A) or (B) of this paragraph, shall appoint counsel for the youth in any case in which the youth would be entitled to appointed counsel if the youth were an adult charged with the same offense.

(D) May appoint counsel for the youth in any other proceeding under ORS 419C.005.

[(b) Appointment of counsel under this subsection requires the court's determination that the youth or the youth's parents or guardians are without sufficient financial means to employ suitable counsel possessing the skills and experience commensurate with the nature of the petition and the complexity of the case under the policies, procedures, standards and guidelines of the Public Defense Services Commission.]

[(c)] (b) The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the Public Defense Services Commission.

(2)(a) A court may not accept a waiver of counsel by a youth except under the following circumstances:

(A) The youth is at least 16 years of age;

(B) The youth has met with and been advised regarding the right to counsel by counsel who has been appointed by the court or retained on behalf of the youth;

(C) A written waiver, signed by both the youth and the youth's counsel, is filed with the court; and

(D) A hearing is held on the record where the youth's counsel appears and the court, after consulting with the youth, finds the waiver was knowingly, intelligently and voluntarily made and not unduly influenced by the interests of others, including the interests of the youth's parents or guardians.

(b) This subsection does not apply to a youth entering into a formal accountability agreement under ORS 419C.230.

(3) Upon presentation of the order of appointment under this section by the counsel for the youth, any agency, hospital, school organization, division or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the counsel to inspect and copy any records of the youth or youths involved in the case, without the consent of the youth or youths or parents. This subsection does not apply to records of a police agency relating to an ongoing investigation prior to charging.

SECTION 14. ORS 419C.206 is amended to read:

419C.206. When the court appoints counsel for [*the youth and the youth is determined to be entitled to, and financially eligible for, appointment of counsel at state expense and the parent or guardian is without sufficient financial means to employ counsel*] **a youth**, the compensation for counsel and reasonable fees and expenses of investigation, preparation and presentation paid or incurred shall be determined and paid as provided in ORS 135.055.

SECTION 15. ORS 419C.245 is amended to read:

419C.245. (1) The juvenile department counselor shall inform, in writing, a youth and the youth's parents or guardians of the youth's right to counsel and to appointed counsel at state expense[, *if the youth is determined to be financially eligible under the policies, procedures, standards and guidelines of the Public Defense Services Commission*]. The right to counsel shall attach prior to the youth's entering into a formal accountability agreement.

(2) The youth may waive the right to counsel prior to the youth's entering into a formal accountability agreement, provided that:

(a) The youth's juvenile department counselor has advised the youth of the youth's right to counsel, in writing; and

(b) The waiver is in writing, signed by the youth and presented to the youth's juvenile department counselor.

SECTION 16. ORS 419C.303 is amended to read:

419C.303. (1) The summons **issued under ORS 419C.300** shall be signed by a counselor or some other person acting under the direction of the court and shall contain the name of the court, the title of the proceeding and, except for a published summons, a brief statement of the substance of the facts required by ORS 419C.255 (1)(b).

(2) The summons shall also include a notice that [*the parent or other person legally obligated to support the youth may be required to pay, at some future date, for all or a portion of the support of the youth, including the cost of out-of-home placement, depending upon the ability of the parent to pay support*]:

(a) **Neither the youth or the parent or guardian of the estate is responsible for any administrative fees in connection with a delinquency proceeding, including but not limited to fees for court-appointed counsel, applications for expunction of records, juvenile sex offender reporting, electronic payments or checks that are returned for insufficient funds; and**

(b) The youth may be required to pay, at some future date, restitution that the court is required to consider imposing under ORS 419C.450.

SECTION 17. ORS 419C.315 is amended to read:

419C.315. The court may authorize payment of travel expenses of any party summoned. Except as provided in this section, responsibility for the payment of the cost of service of summons or other process on any party, and for payment of travel expenses so authorized, shall be borne by the party issuing the summons or requesting the court to issue the summons. When the Oregon Youth Authority issues the summons or requests the court to issue the summons, responsibility for such payment shall be borne by the county. **When the court-appointed counsel for a youth, youth offender or young person issues the summons or requests the court to issue the summons, responsibility for the fees and costs associated with that summons shall be paid pursuant to ORS 135.055.**

SECTION 18. ORS 419C.380 is amended to read:

419C.380. (1) An evaluation ordered under ORS 419C.378 must be conducted by a psychiatrist, a licensed psychologist or a regulated social worker. If an evaluation is requested, the party at whose request the evaluation was ordered shall notify the court and other parties of the date, time and location of the evaluation and the name of the evaluator chosen by the party. A party or the court may submit written information to the evaluator for consideration. When written information that has not been provided to the court or an opposing party is submitted to the evaluator, the party submitting the written information to the evaluator shall provide the written information to the court and the opposing party.

[(2)(a) Upon motion of the youth, or upon the court's own motion, a court shall determine whether the youth is financially eligible under the policies, procedures, standards and guidelines of the Public Defense Services Commission.]

[(b) If a county court or justice court determines that the youth is financially eligible, the]

(2)(a) A county court or justice court shall order the county to pay the fees and costs described in subsection (3) of this section from funds available for that purpose.

[(c) (b) [If a circuit court determines that the youth is financially eligible, the] A circuit court shall order the public defense services executive director to pay the fees and costs described in subsection (3) of this section from funds available for that purpose.

[(3) If a court determines that a youth is financially eligible under subsection (2) of this section, the court shall order that]

(3) Pursuant to subsection (2) of this section, the county or the public defense services executive director shall pay:

(a) A reasonable fee *[be paid]* to a psychiatrist, licensed psychologist or regulated social worker in private practice who conducts the evaluation; and

(b) All costs, including transportation of the youth, *[be paid]* if the evaluation is conducted by a psychiatrist, licensed psychologist or regulated social worker employed by the Department of Human Services or is conducted by a community mental health program or community developmental disabilities program established under ORS 430.610 to 430.695.

[(4) If an evaluation is ordered under ORS 419C.378 at the request of or with the acquiescence of a youth, and the youth is determined not to be financially eligible under subsection (2) of this section, the evaluation shall be performed at the youth's expense.]

[(5) (4) If an evaluation is ordered under ORS 419C.378 [at the request of the district attorney or juvenile department], the county shall pay for the expense of the evaluation.

[(6) (5) After a motion is made by the court or the youth under ORS 419C.378 (3), the state shall have the right to seek an independent evaluation at its own expense.

[(7) (6) A youth may not be removed from the youth's current placement for the purpose of an evaluation performed under this section unless the youth has been placed in a detention facility as defined in ORS 419A.004 or a youth correction facility as defined in ORS 420.005.

SECTION 19. ORS 419C.535 is amended to read:

419C.535. (1) *[If the juvenile panel of the Psychiatric Security Review Board determines that a young person about whom a hearing under ORS 419C.532 is being held is financially eligible,]* The juvenile panel **of the Psychiatric Security Review Board** shall appoint suitable counsel to represent *[the]* a young person **about whom a hearing under ORS 419C.532 is being held**. Counsel appointed must be an attorney who satisfies the professional qualification standards established by the Public Defense Services Commission under ORS 151.216. The public defense services executive director shall determine and allow fair compensation for counsel appointed under this subsection and the reasonable expenses of the young person in respect to the hearing. Compensation payable to appointed counsel may not be less than the applicable compensation level established under ORS 151.216. The public defense services executive director shall pay compensation and expenses allowed from funds available for that purpose.

[(2) When the juvenile panel appoints counsel to represent the young person, the juvenile panel may order the young person, if able, parent, if able, or guardian of the estate, if the estate is able, to pay to the Public Defense Services Account established by ORS 151.225, through the clerk of the court, in full or in part, the administrative costs of determining the ability of the young person, parent or estate to pay for legal services and the costs of the legal and other services that are related to the provision of appointed counsel. The juvenile panel's order of payment may be entered in the County Clerk Lien Record and enforced as provided in ORS 205.126.]

[(3) The test of the young person's, parent's or estate's ability to pay costs under subsection (2) of this section is the same test as applied to appointment of counsel for defendants under ORS 135.050 or under the rules adopted under ORS 151.216. If counsel is provided at state expense, the juvenile panel shall apply this test in accordance with the guidelines adopted by the Public Defense Services Commission under ORS 151.485.]

[(4) If counsel is provided at state expense, the juvenile panel shall determine the amount the young person, parent or estate is required to pay for the costs of administrative, legal and other services related to the provision of appointed counsel in the same manner as this amount is determined under ORS 151.487.]

(2) The juvenile panel may not order the young person, parent or guardian of the estate to pay any part of the administrative costs of appointing counsel for the young person or to pay for the costs of legal and other services that are related to the provision of appointed counsel.

[(5)] (3) The Attorney General may represent the state at contested hearings before the juvenile panel unless the district attorney of the county in which the young person was adjudicated elects to represent the state. The district attorney of the county in which the young person was adjudicated shall cooperate with the Attorney General in securing the material necessary for presenting a contested hearing before the juvenile panel. If the district attorney elects to represent the state, the district attorney shall give timely written notice to the Attorney General, the juvenile panel and the attorney representing the young person.

ACCOUNTABILITY AGREEMENTS; PROBATION; DISCHARGE

SECTION 20. ORS 419C.230 is amended to read:

419C.230. (1) A formal accountability agreement may be entered into when a youth has been referred to a county juvenile department, and a juvenile department counselor has probable cause to believe that the youth may be found to be within the jurisdiction of the juvenile court for one or more acts specified in ORS 419C.005.

(2) Notwithstanding subsection (1) of this section, unless authorized by the district attorney, a formal accountability agreement may not be entered into when the youth:

(a) Is alleged to have committed an act that if committed by an adult would constitute:

(A) A felony sex offense under ORS 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411, 163.425 or 163.427; or

(B) An offense involving the use or possession of a firearm, as defined in ORS 166.210, or destructive device, as described in ORS 166.382; or

(b) Is being referred to the county juvenile department for a second or subsequent time for commission of an act that if committed by an adult would constitute a felony.

(3) The juvenile department must consult the victim before entering into a formal accountability agreement if:

(a) The victim has requested consultation in plea negotiations; and

(b) The formal accountability agreement involves an alleged act that if committed by an adult would constitute a violent felony.

(4)(a) The juvenile department may not require the youth or youth's parent or guardian to pay any fee, cost or surcharge as a requirement of a formal accountability agreement.

(b) Notwithstanding paragraph (a) of this subsection, a youth or the youth's parent or guardian may pay fees or costs associated with participating in a program under this section through public or private insurance or by private means.

SECTION 21. ORS 419C.446 is amended to read:

419C.446. (1) When a court determines it would be in the best interest and welfare of a youth offender, the court may place the youth offender on probation. The court may direct that the youth offender remain in the legal custody of the youth offender's parents or other person with whom the youth offender is living, or the court may direct that the youth offender be placed in the legal custody of some relative or some person maintaining a foster home approved by the court, or in a child care center or a youth care center authorized to accept the youth offender.

(2) The court may specify particular requirements to be observed during the probation consistent with recognized juvenile court practice, including but not limited to restrictions on visitation by the youth offender's parents, restrictions on the youth offender's associates, occupation and activities, restrictions on and requirements to be observed by the person having the youth offender's legal custody, requirements for visitation by and consultation with a juvenile counselor or other suitable counselor, requirements to make restitution under ORS 419C.450, requirements of a period of detention under ORS 419C.453, [*requirements to pay a fine under ORS 419C.459, requirements to pay a supervision fee under ORS 419C.449,*] requirements to perform community service under ORS 419C.462, or service for the victim under ORS 419C.465, or requirements to submit to blood or buccal testing under ORS 419C.473.

(3) If the youth offender is a sex offender, as defined in ORS 163A.005, the juvenile department shall notify the chief of police, if the youth offender is going to reside within a city, and the county sheriff of the county in which the youth offender is going to reside of the youth offender's release on probation and the requirements imposed on the youth offender's probation under subsection (2) of this section.

(4)(a) The court, juvenile department or any other agency may not order the youth offender or the youth offender's parent or guardian to pay any fee, cost or surcharge as a condition of probation or to pay any probation supervision fee.

(b) Notwithstanding paragraph (a) of this subsection, a youth offender or the youth offender's parent or guardian may pay fees or costs associated with participating in a program under this section through public or private insurance or by private means.

SECTION 21a. If Senate Bill 436 becomes law, section 21 of this 2021 Act (amending ORS 419C.446) is repealed and ORS 419C.446, as amended by section 70, chapter __, Oregon Laws 2021 (Enrolled Senate Bill 436), is amended to read:

419C.446. (1) When a court determines it would be in the best interest and welfare of an adjudicated youth, the court may place the adjudicated youth on probation. The court may direct that the adjudicated youth remain in the legal custody of the adjudicated youth's parents or other person with whom the adjudicated youth is living, or the court may direct that the adjudicated youth be placed in the legal custody of some relative or some person maintaining a foster home approved by the court, or in a child care center or a youth care center authorized to accept the adjudicated youth.

(2) The court may specify particular requirements to be observed during the probation consistent with recognized juvenile court practice, including but not limited to restrictions on visitation by the adjudicated youth's parents, restrictions on the adjudicated youth's associates, occupation and activities, restrictions on and requirements to be observed by the person having the adjudicated youth's legal custody, requirements for visitation by and consultation with a juvenile counselor or other suitable counselor, requirements to make restitution under ORS 419C.450, requirements of a period of detention under ORS 419C.453, [*requirements to pay a fine under ORS 419C.459, requirements to pay a supervision fee under ORS 419C.449,*] requirements to perform community service under ORS 419C.462, or service for the victim under ORS 419C.465, or requirements to submit to blood or buccal testing under ORS 419C.473.

(3) If the adjudicated youth is a sex offender, as defined in ORS 163A.005, the juvenile department shall notify the chief of police, if the adjudicated youth is going to reside within a city, and the county sheriff of the county in which the adjudicated youth is going to reside of the adjudicated youth's release on probation and the requirements imposed on the adjudicated youth's probation under subsection (2) of this section.

(4)(a) The court, juvenile department or any other agency may not order the adjudicated youth or the adjudicated youth's parent or guardian to pay any fee, cost or surcharge as a condition of probation or to pay any probation supervision fee.

(b) Notwithstanding paragraph (a) of this subsection, an adjudicated youth or the adjudicated youth's parent or guardian may pay fees or costs associated with participating in a program under this section through public or private insurance or by private means.

SECTION 22. ORS 419C.540 is amended to read:

419C.540. (1) The director of a hospital or facility to which a young person was committed under ORS 419C.532 (5) shall apply to the juvenile panel of the Psychiatric Security Review Board for an order of discharge or conditional release of the young person if, at any time after the commitment, the director is of the opinion that the young person:

(a) No longer has a qualifying mental disorder;

(b) Has a qualifying mental disorder other than a serious mental condition but no longer presents a substantial danger to others; or

(c) Can be controlled with proper supervision and treatment services if conditionally released.

(2) The director shall include in an application under subsection (1) of this section a report setting forth the facts that support the opinion of the director. If the application is for conditional release, the director shall also include a verified conditional release plan. The juvenile panel shall hold a hearing on an application under subsection (1) of this section within 30 days of its receipt. Not less than 10 days prior to the hearing before the juvenile panel, copies of the report must be sent to the Attorney General or other attorney representing the state, if any, the district attorney of the county in which the young person was adjudicated, the young person, the young person's attorney, the young person's parents or guardians, if known, and the person having legal custody of the young person.

(3) The attorney representing the state may choose a psychiatrist certified, or eligible to be certified, by the Oregon Medical Board in child psychiatry or a licensed psychologist with expertise in child psychology to examine the young person prior to any decision of the juvenile panel on discharge or conditional release. The results of the examination must be in writing and filed with the juvenile panel and must include, but need not be limited to, an opinion as to whether the young person:

(a)(A) Has a serious mental condition; or

(B) Has a qualifying mental disorder other than a serious mental condition and presents a substantial danger to others; and

(b) Could be adequately controlled with treatment services as a condition of release.

(4) A young person who has been committed to a hospital or facility under ORS 419C.532 (5) or the young person's parents or guardians acting on the young person's behalf may apply to the ju-

venile panel for an order of discharge or conditional release upon the grounds that the young person:

- (a) No longer has a qualifying mental disorder;
- (b) Has a qualifying mental disorder other than a serious mental condition but no longer presents a substantial danger to others; or

(c) Can be controlled with proper supervision and treatment services if conditionally released.

(5) When an application is made under subsection (4) of this section, the juvenile panel shall require a report from the director of the hospital or facility. The director shall prepare and transmit the report as provided in subsection (2) of this section.

(6) At a hearing on an application under subsection (4) of this section:

(a) The applicant has the burden of proving the young person's fitness for discharge or conditional release; or

(b) If more than two years have passed since the state had the burden of proving the young person's lack of fitness for discharge or conditional release, the state has the burden of proving the young person's lack of fitness for discharge or conditional release.

(7) A person may not file an application for discharge or conditional release under subsection (4) of this section:

(a) Sooner than 90 days after the initial juvenile panel hearing concerning the young person.

(b) If another application for discharge or conditional release of the young person was filed during the immediately preceding 90 days.

(8) The juvenile panel shall hold a hearing on an application under subsection (4) of this section within 30 days after the application is filed.

(9)(a) The juvenile panel and the director of a hospital or facility to which a young person was committed under ORS 419C.532 (5) may not assess any fees or costs against the young person or the young person's parent or guardian, including but not limited to court-appointed attorney fees, examination fees and costs and supervision expenses. This paragraph does not apply to expenses associated with the young person's treatment.

(b) Notwithstanding paragraph (a) of this subsection, if the young person is committed to the Oregon State Hospital, the young person's ability to pay and cost of care are determined under ORS 179.640 and 179.701.

SECTION 23. ORS 419C.570 is amended to read:

419C.570. (1)(a) A parent or legal guardian of a youth offender, if the parent or guardian was served with summons under ORS 419C.300, 419C.303 and 419C.306 prior to the adjudication or at least 10 days prior to disposition, is subject to the jurisdiction of the court for purposes of this section. The court may:

(A) Order the parent or guardian to assist the court in any reasonable manner in providing appropriate education or counseling for the youth offender; **or**

[(B) If the youth offender is within the jurisdiction of the court for having committed an act that if committed by an adult would constitute a violation of ORS 166.250, 166.370 or 166.382, require the parent or guardian to pay or cause to be paid all or part of the reasonable costs of any mental health assessment or screening ordered by the court under ORS 419C.109 (3);]

[(C)] (B) If the court orders probation, require the parent or guardian to enter into a contract with the juvenile department in regard to the supervision and implementation of the youth offender's probation.]; or]

[(D) If the court orders probation, require the parent or guardian to pay all or a portion of the supervision fee if a supervision fee is imposed under ORS 419C.446 (2).]

(b) In all cases in which a youth offender is placed on probation, the juvenile department and the parent or guardian shall develop a plan for supervision of the youth offender. The plan must be reasonably calculated to provide the supervision necessary to prevent further acts of delinquency given the individual circumstances of the youth offender. The court shall review and ratify the plan and make the plan a part of the probation order.

[2] *The court may require the parent or guardian to pay a specific sum not to exceed \$1,000 for a violation by the parent or guardian of the court's order or the contract under subsection (1)(a) of this section.*

[3] (2) The court may not revoke a youth offender's probation solely because of a failure of the youth offender's parent or guardian to comply with an order or a contract under subsection (1)(a) of this section.

SECTION 23a. If Senate Bill 436 becomes law, section 23 of this 2021 Act (amending ORS 419C.570) is repealed and ORS 419C.570, as amended by section 96, chapter __, Oregon Laws 2021 (Enrolled Senate Bill 436), is amended to read:

419C.570. (1)(a) A parent or legal guardian of an adjudicated youth, if the parent or guardian was served with summons under ORS 419C.300, 419C.303 and 419C.306 prior to the adjudication or at least 10 days prior to disposition, is subject to the jurisdiction of the court for purposes of this section. The court may:

(A) Order the parent or guardian to assist the court in any reasonable manner in providing appropriate education or counseling for the adjudicated youth; **or**

[(B) If the adjudicated youth is within the jurisdiction of the court for having committed an act that if committed by an adult would constitute a violation of ORS 166.250, 166.370 or 166.382, require the parent or guardian to pay or cause to be paid all or part of the reasonable costs of any mental health assessment or screening ordered by the court under ORS 419C.109 (3);]

[(C)] (B) If the court orders probation, require the parent or guardian to enter into a contract with the juvenile department in regard to the supervision and implementation of the adjudicated youth's probation.[: or]

[(D) If the court orders probation, require the parent or guardian to pay all or a portion of the supervision fee if a supervision fee is imposed under ORS 419C.446 (2).]

(b) In all cases in which an adjudicated youth is placed on probation, the juvenile department and the parent or guardian shall develop a plan for supervision of the adjudicated youth. The plan must be reasonably calculated to provide the supervision necessary to prevent further acts of delinquency given the individual circumstances of the adjudicated youth. The court shall review and ratify the plan and make the plan a part of the probation order.

[2] *The court may require the parent or guardian to pay a specific sum not to exceed \$1,000 for a violation by the parent or guardian of the court's order or the contract under subsection (1)(a) of this section.*

[3] (2) The court may not revoke an adjudicated youth's probation solely because of a failure of the adjudicated youth's parent or guardian to comply with an order or a contract under subsection (1)(a) of this section.

SECTION 24. ORS 420.525 is amended to read:

420.525. The costs of the hearings held under ORS 179.473, 419B.328, 419B.331, 419B.334, 419B.337, 419B.343, 419B.346, 419B.349, 419C.446, 419C.450, 419C.478, 419C.481, 419C.486, 419C.489, 419C.492, 419C.498 and 420.500 to 420.525 and the fees for physicians and other qualified persons appointed under ORS 179.473, 419B.328, 419B.331, 419B.334, 419B.337, 419B.343, 419B.346, 419B.349, 419C.446, 419C.450, 419C.478, 419C.481, 419C.486, 419C.489, 419C.492, 419C.498 and 420.500 to 420.525 shall be charged to the county of the youth's residence prior to the initial commitment of the youth to a youth correction facility or to the county of the adult's residence prior to the initial commitment of the adult in custody to a penal or correctional institution. Attorney fees may also be charged to that county if the [youth or] adult in custody has no separate estate or if the parents of the youth refuse or are unable to provide an attorney.

BLOOD TESTING

SECTION 25. ORS 419C.473 is amended to read:

419C.473. (1) Whenever a youth offender has been found to be within the jurisdiction of the court under ORS 419C.005 for having committed an act that if done by an adult would constitute a

felony listed in subsection (2) of this section, the court shall order the youth offender to submit to the obtaining of a blood or buccal sample in the manner provided by ORS 137.076. The court shall further order that as soon as practicable after the entry of the dispositional order, the law enforcement agency attending upon the court shall cause a blood or buccal sample to be obtained and transmitted in accordance with ORS 137.076. *[The court may also order the youth offender to reimburse the appropriate agency for the cost of obtaining and transmitting the blood or buccal sample.]*

(2) The felonies to which subsection (1) of this section applies are:

(a) Rape, sodomy, unlawful sexual penetration, sexual abuse in the first or second degree, public indecency, incest or using a child in a display of sexually explicit conduct, as those offenses are defined in ORS 163.355 to 163.427, 163.465 (1)(d), 163.525 and 163.670;

(b) Burglary in the second degree, as defined in ORS 164.215, when committed with intent to commit any offense listed in paragraph (a) of this subsection;

(c) Promoting or compelling prostitution, as defined in ORS 167.012 and 167.017;

(d) Burglary in the first degree, as defined in ORS 164.225;

(e) Assault in the first degree, as defined in ORS 163.185;

(f) Conspiracy or attempt to commit any Class A or Class B felony listed in paragraphs (a) to (e) of this subsection; or

(g) Murder or aggravated murder.

(3) No order for the obtaining and transmitting of a blood or buccal sample is required to be entered if:

(a) The Department of State Police notifies the court or the law enforcement agency attending upon the court that it has previously received an adequate blood or buccal sample taken from the youth offender in accordance with this section, ORS 137.076 or 161.325 (4); or

(b) The court determines that obtaining a sample would create a substantial and unreasonable risk to the health of the youth offender.

(4) Notwithstanding any other provision of law, blood and buccal samples and other physical evidence and criminal identification information obtained under authority of this section or as a result of analysis conducted pursuant to ORS 181A.155 may be maintained, stored, destroyed and released to authorized persons or agencies under the conditions established in ORS 181A.155 and rules adopted by the Department of State Police under the authority of that section.

(5) The court may not order the youth offender or the parent or guardian of the youth offender to pay for or to reimburse any agency for the cost of obtaining or transmitting a blood or buccal sample under this section.

SECTION 25a. If Senate Bill 436 becomes law, section 25 of this 2021 Act (amending ORS 419C.473) is repealed and ORS 419C.473, as amended by section 80, chapter __, Oregon Laws 2021 (Enrolled Senate Bill 436), is amended to read:

419C.473. (1) Whenever an adjudicated youth has been found to be within the jurisdiction of the court under ORS 419C.005 for having committed an act that if done by an adult would constitute a felony listed in subsection (2) of this section, the court shall order the adjudicated youth to submit to the obtaining of a blood or buccal sample in the manner provided by ORS 137.076. The court shall further order that as soon as practicable after the entry of the dispositional order, the law enforcement agency attending upon the court shall cause a blood or buccal sample to be obtained and transmitted in accordance with ORS 137.076. *[The court may also order the adjudicated youth to reimburse the appropriate agency for the cost of obtaining and transmitting the blood or buccal sample.]*

(2) The felonies to which subsection (1) of this section applies are:

(a) Rape, sodomy, unlawful sexual penetration, sexual abuse in the first or second degree, public indecency, incest or using a child in a display of sexually explicit conduct, as those offenses are defined in ORS 163.355 to 163.427, 163.465 (1)(d), 163.525 and 163.670;

(b) Burglary in the second degree, as defined in ORS 164.215, when committed with intent to commit any offense listed in paragraph (a) of this subsection;

- (c) Promoting or compelling prostitution, as defined in ORS 167.012 and 167.017;
- (d) Burglary in the first degree, as defined in ORS 164.225;
- (e) Assault in the first degree, as defined in ORS 163.185;
- (f) Conspiracy or attempt to commit any Class A or Class B felony listed in paragraphs (a) to (e) of this subsection; or
- (g) Murder or aggravated murder.

(3) No order for the obtaining and transmitting of a blood or buccal sample is required to be entered if:

(a) The Department of State Police notifies the court or the law enforcement agency attending upon the court that it has previously received an adequate blood or buccal sample taken from the adjudicated youth in accordance with this section, ORS 137.076 or 161.325 (4); or

(b) The court determines that obtaining a sample would create a substantial and unreasonable risk to the health of the adjudicated youth.

(4) Notwithstanding any other provision of law, blood and buccal samples and other physical evidence and criminal identification information obtained under authority of this section or as a result of analysis conducted pursuant to ORS 181A.155 may be maintained, stored, destroyed and released to authorized persons or agencies under the conditions established in ORS 181A.155 and rules adopted by the Department of State Police under the authority of that section.

(5) The court may not order the adjudicated youth or the parent or guardian of the adjudicated youth to pay for or to reimburse any agency for the cost of obtaining or transmitting a blood or buccal sample under this section.

SECTION 26. ORS 419C.475 is amended to read:

419C.475. (1) Whenever a youth offender has been found to be within the jurisdiction of the court under ORS 419C.005 (1) for having committed an act from which it appears that the transmission of body fluids from one person to another as described in ORS 135.139 may have been involved or a sexual act may have occurred, the court shall order the youth offender to submit to blood-borne infection testing as provided in ORS 135.139 if the victim, or parent or guardian of the victim, requests the court to make such an order.

(2) The court may *also* **not** order the youth offender or the parent or guardian of the youth offender to **pay for or** reimburse *the appropriate* **any** agency for the cost of the test.

FEES FOR COURT RECORDS

SECTION 27. ORS 419A.256 is amended to read:

419A.256. (1)(a) Once prepared and filed with the court, a transcript of a juvenile court proceeding is part of the record of the case maintained by the clerk of the court under ORS 419A.255 (1) and is subject to the provisions of ORS 419A.255 governing access and disclosure.

(b) Notwithstanding ORS 419A.255, if a transcript, audio recording or video recording has been prepared in any proceeding under ORS chapter 419C, the victim, **child, ward, youth, youth offender or young person or the parent or guardian of the child, ward, youth, youth offender or young person** may obtain a copy *[by paying the actual cost of preparation.] at no cost.*

(2) If the court finds that the child, ward, youth, youth offender or parent or guardian of the child, ward, youth or youth offender is *[without financial means to purchase all or a necessary part of the transcript of the evidence or proceedings]* **eligible for court appointed counsel at state expense**, the court shall order, upon motion, the transcript or part of the transcript to be furnished. The transcript or part of the transcript furnished under this subsection must be paid for in the same manner as furnished transcripts are paid for in criminal cases.

(3) The official audio, video or other recording of a juvenile court proceeding shall be withheld from public inspection but is open to inspection by the persons described in ORS 419A.255 (1)(b)(A) to (Q).

(4) With a finding of good cause and subject to any conditions the court finds appropriate, the court may provide a copy of the audio or video recording of a juvenile court proceeding to persons described in ORS 419A.255 (1)(b)(A), (I), (J) and (M) to (Q).

SECTION 27a. If Senate Bill 436 becomes law, section 27 of this 2021 Act (amending ORS 419A.256) is repealed and ORS 419A.256, as amended by section 53, chapter ___, Oregon Laws 2021 (Enrolled Senate Bill 436), is amended to read:

419A.256. (1)(a) Once prepared and filed with the court, a transcript of a juvenile court proceeding is part of the record of the case maintained by the clerk of the court under ORS 419A.255 (1) and is subject to the provisions of ORS 419A.255 governing access and disclosure.

(b) Notwithstanding ORS 419A.255, if a transcript, audio recording or video recording has been prepared in any proceeding under ORS chapter 419C, the victim, **child, ward, youth, adjudicated youth or young person or the parent or guardian of the child, ward, youth, adjudicated youth or young person** may obtain a copy *[by paying the actual cost of preparation.] at no cost.*

(2) If the court finds that the child, ward, youth, adjudicated youth or parent or guardian of the child, ward, youth or adjudicated youth is *[without financial means to purchase all or a necessary part of the transcript of the evidence or proceedings]* **eligible for court appointed counsel at state expense**, the court shall order, upon motion, the transcript or part of the transcript to be furnished. The transcript or part of the transcript furnished under this subsection must be paid for in the same manner as furnished transcripts are paid for in criminal cases.

(3) The official audio, video or other recording of a juvenile court proceeding shall be withheld from public inspection but is open to inspection by the persons described in ORS 419A.255 (1)(b)(A) to (Q).

(4) With a finding of good cause and subject to any conditions the court finds appropriate, the court may provide a copy of the audio or video recording of a juvenile court proceeding to persons described in ORS 419A.255 (1)(b)(A), (I), (J) and (M) to (Q).

PARENTING PROGRAM; TREATMENT

SECTION 28. ORS 419C.573 is amended to read:

419C.573. (1)(a) The court may order the parent or guardian to participate in any educational or counseling programs as are reasonably directed toward improvement of parenting skills and the ability of the parent to supervise the youth offender if the court finds:

(A) That a deficiency in parenting skills has significantly contributed to the circumstances bringing the youth offender within the jurisdiction of the court; and

(B) That participation would be consistent with the best interests of the youth offender.

(b) The programs may include, but need not be limited to, parenting classes.

(c) The court may order such participation with the youth offender or separately.

(d)(A) The court or the county may not require the parent or guardian to pay any fee or cost associated with participating in a program under this section.

(B) Notwithstanding subparagraph (A) of this paragraph, a youth offender or the youth offender's parent or guardian may pay fees or costs associated with participating in a program under this section through public or private insurance or by private means.

[(2) As an alternative to a contempt proceeding, the court may require a parent or guardian to pay a specific sum not to exceed \$1,000 for a violation by the parent or guardian of an order under subsection (1) of this section.]

[(3)] **(2)** The court may not revoke a youth offender's probation solely because of a failure of the youth offender's parent or guardian to comply with an order under subsection (1) of this section.

SECTION 28a. If Senate Bill 436 becomes law, section 28 of this 2021 Act (amending ORS 419C.573) is repealed and ORS 419C.573, as amended by section 97, chapter ___, Oregon Laws 2021 (Enrolled Senate Bill 436), is amended to read:

419C.573. (1)(a) The court may order the parent or guardian to participate in any educational or counseling programs as are reasonably directed toward improvement of parenting skills and the ability of the parent to supervise the adjudicated youth if the court finds:

(A) That a deficiency in parenting skills has significantly contributed to the circumstances bringing the adjudicated youth within the jurisdiction of the court; and

(B) That participation would be consistent with the best interests of the adjudicated youth.

(b) The programs may include, but need not be limited to, parenting classes.

(c) The court may order such participation with the adjudicated youth or separately.

(d)(A) The court or the county may not require the parent or guardian to pay any fee or cost associated with participating in a program under this section.

(B) Notwithstanding subparagraph (A) of this paragraph, an adjudicated youth or the adjudicated youth's parent or guardian may pay fees or costs associated with participating in a program under this section through public or private insurance or by private means.

[(2) As an alternative to a contempt proceeding, the court may require a parent or guardian to pay a specific sum not to exceed \$1,000 for a violation by the parent or guardian of an order under subsection (1) of this section.]

[(3)] **(2)** The court may not revoke an adjudicated youth's probation solely because of a failure of the adjudicated youth's parent or guardian to comply with an order under subsection (1) of this section.

SECTION 29. ORS 419C.575 is amended to read:

419C.575. If the court finds that the parent's or guardian's addiction to or habitual use of alcohol, cannabis or controlled substances has significantly contributed to the circumstances bringing the youth offender within the jurisdiction of the court, the court may conduct a special hearing to determine if the court should order the parent or guardian to participate in treatment *[and pay the costs thereof]*. Notice of this hearing shall be by special petition and summons to be filed by the court and served upon the parent or guardian. The court shall appoint counsel to represent the parent or guardian *[if the parent or guardian is eligible under ORS 135.050]* **at state expense**. If, at this hearing, the court finds it is in the best interest of the youth offender for the parent or guardian to be directly involved in treatment, the judge may order the parent or guardian to participate in treatment. The dispositional order shall be in writing and shall contain appropriate findings of fact and conclusions of law. **The court may not impose any fees or costs for court-appointed counsel, evaluation or treatment ordered under this section.** The judge shall state with particularity, both orally and in the written order of the disposition, the precise terms of the disposition.

SECTION 30. ORS 471.430 is amended to read:

471.430. (1) A person under 21 years of age may not attempt to purchase, purchase or acquire alcoholic beverages. Except when such minor is in a private residence accompanied by the parent or guardian of the minor and with such parent's or guardian's consent, a person under 21 years of age may not have personal possession of alcoholic beverages.

(2) For the purposes of this section, personal possession of alcoholic beverages includes the acceptance or consumption of a bottle of such beverages, or any portion thereof or a drink of such beverages. However, this section does not prohibit the acceptance or consumption by any person of sacramental wine as part of a religious rite or service.

(3) Except as authorized by rule or as necessitated in an emergency, a person under 21 years of age may not enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.

(4)(a) Except as provided in paragraph (b) of this subsection, a person who violates subsection (1) or (3) of this section commits a Class B violation.

(b) A person commits a Class A violation if the person violates subsection (1) of this section by reason of personal possession of alcoholic beverages while the person is operating a motor vehicle as defined in ORS 801.360.

(c) Notwithstanding ORS 153.018, if a person who violates subsection (1) or (3) of this section was under 18 years of age at the time of the violation, the court may not impose any fine for the violation.

(5) In addition to and not in lieu of any other penalty established by law:

(a) The court may order a person who violates subsection (1) of this section through misrepresentation of age to perform community service; and

(b) The court shall order, when a person violates subsection (1) of this section, that the person's driving privileges and right to apply for driving privileges be suspended pursuant to ORS 809.260 and 809.280. The court notification made to the Department of Transportation under this paragraph may include a recommendation that the person be granted a hardship permit under ORS 807.240 if the person is otherwise eligible for the permit.

(6) If a person cited under this section is at least 13 years of age but less than 21 years of age at the time the person is found in default under ORS 153.102 or 419C.472 for failure to appear, in addition to and not in lieu of any other penalty established by law, the court shall issue notice under ORS 809.220 to the department for the department to suspend the person's driving privileges under ORS 809.280 (4).

(7) In addition to and not in lieu of any penalty established by law, the court may order a person who violates this section to undergo assessment and treatment as provided in ORS 471.432. The court shall order a person to undergo assessment and treatment as provided in ORS 471.432 if the person has previously been found to have violated this section.

(8) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of the Oregon Liquor Control Commission or under the direction of state or local law enforcement agencies for the purpose of investigating possible violations of laws prohibiting sales of alcoholic beverages to persons who are under 21 years of age.

(9) The prohibitions of this section do not apply to a person under 21 years of age who is acting under the direction of a licensee for the purpose of investigating possible violations by employees of the licensee of laws prohibiting sales of alcoholic beverages to persons who are under 21 years of age.

(10)(a) A person under 21 years of age is not in violation of, and is immune from prosecution under, this section if:

(A) The person contacted emergency medical services or a law enforcement agency in order to obtain medical assistance for another person who was in need of medical assistance due to alcohol consumption and the evidence of the violation was obtained as a result of the person's having contacted emergency medical services or a law enforcement agency; or

(B) The person was in need of medical assistance due to alcohol consumption and the evidence of the violation was obtained as a result of the person's having sought or obtained the medical assistance.

(b) Paragraph (a) of this subsection does not exclude the use of evidence obtained as a result of a person's having sought medical assistance in proceedings for crimes or offenses other than a violation of this section.

SECTION 31. ORS 471.432 is amended to read:

471.432. When a person is ordered to undergo assessment and treatment as provided in ORS 471.430, the court shall require the person to do all of the following:

(1) **If the person is 18 years of age or older**, pay to the court the fee described under ORS 813.030 in addition to any fine imposed under ORS 471.430.

(2) Complete an examination by an agency or organization designated by the court to determine whether the person has a problem condition involving alcohol as described in ORS 813.040. The designated agencies or organizations must meet minimum standards established under ORS 430.357 to perform the diagnostic assessment and treatment of problem drinking and alcoholism and must be certified by the Director of the Oregon Health Authority.

(3) Complete a treatment program, paid at the expense of the person convicted, as follows:

(a) If the examination required under this section shows that the person has a problem condition involving alcohol, a program for rehabilitation for alcoholism approved by the director.

(b) If the examination required by this section shows that the person does not have a problem condition involving alcohol, an alcohol information program approved by the director.

SECTION 32. ORS 813.030 is amended to read:

813.030. (1) The fee required by ORS 471.432 and 813.020 (1) shall be in the amount of \$255, except that the court may waive all or part of the fee in cases involving indigent defendants. The court may make provision for payment of the fee on an installment basis. A circuit court shall deposit the fee in the Criminal Fine Account. If the fee is collected in a municipal or justice court, the fee shall be forwarded by the court to the Department of Revenue for deposit in the Criminal Fine Account.

(2) The court may not order the fee under ORS 471.432 to be paid in any case where the person who is required to undergo assessment and treatment is under 18 years of age.

PARENTAL SUPPORT

SECTION 32a. ORS 25.517 is amended to read:

25.517. An order for support entered pursuant to ORS 25.501 to 25.556 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[,] or 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 25.513.

SECTION 32b. If Senate Bill 436 becomes law, section 3, chapter ___, Oregon Laws 2021 (Enrolled Senate Bill 436) (amending ORS 25.517), is repealed.

SEX OFFENDER REGISTRY FEES

SECTION 33. ORS 163A.030 is amended to read:

163A.030. (1)(a) Except as provided in subsection (6) of this section, the juvenile court shall hold a hearing on the issue of reporting as a sex offender by a person who has been found to be within the jurisdiction of the juvenile court under ORS 419C.005, or found by the juvenile court to be responsible except for insanity under ORS 419C.411, for having committed an act that if committed by an adult would constitute a felony sex crime if:

(A) The person was adjudicated on or after August 12, 2015; or

(B) The person was adjudicated before August 12, 2015, and was still under the jurisdiction of the juvenile court or the Psychiatric Security Review Board on April 4, 2016.

(b) Unless the court continues the hearing described in this section for good cause, the hearing must be held:

(A) During the six-month period before the termination of juvenile court jurisdiction over the person; or

(B) During the six-month period after the court receives the notice described in subsection (2) of this section from the Psychiatric Security Review Board, if the person was placed under the jurisdiction of the board.

(c) The court shall notify the person of the person's right to a hearing under this section upon finding the person within the jurisdiction of the juvenile court under ORS 419C.005.

(2)(a) The county or state agency responsible for supervising the person shall notify the person and the juvenile court when the agency determines that termination of jurisdiction is likely to occur within six months.

(b) If the Psychiatric Security Review Board discharges a person prior to the end of the board's jurisdiction over the person, the board shall notify the juvenile court within three business days after the discharge date.

(3) Upon receipt of the notice described in subsection (2) of this section, the court shall:

(a) Appoint an attorney for the person as described in subsection (4) of this section;

(b) Set an initial hearing date; and

(c) Notify the parties and the juvenile department or the Psychiatric Security Review Board, if the department or board is supervising or has jurisdiction over the person, of the hearing at least 60 days before the hearing date.

(4)(a) A person who is the subject of a hearing under this section has the right to be represented by a suitable attorney possessing skills and experience commensurate with the nature and complexity of the case, to consult with the attorney prior to the hearing and[, *if financially eligible,*] to have a suitable attorney appointed at state expense.

(b) In order to comply with the right to counsel under paragraph (a) of this subsection, the court may:

(A) Continue the appointment of the attorney appointed under ORS 419C.200 at the time of disposition;

(B) Set a date prior to the hearing under this section in order to reappoint the attorney appointed under ORS 419C.200; or

(C) Appoint or reappoint an attorney at any time in response to a request by the person who is the subject of a hearing under this section.

(5)(a) The district attorney shall notify the victim prior to the hearing of the right to appear and the right to be heard under ORS 419C.273.

(b) If the person is under the jurisdiction of the Psychiatric Security Review Board, the board shall notify the following of the hearing:

(A) The mental health agency providing services to the person, if any;

(B) The person's board defense attorney; and

(C) The assistant attorney general representing the state at board hearings.

(6)(a) A person may waive the right to the hearing described in this section only after receiving the notice described in subsection (2)(a) of this section and after consultation with the person's attorney. If the court finds that the person has knowingly waived the right to a hearing, the court shall enter an order requiring the person to report as a sex offender under ORS 163A.025.

(b) If a person fails to appear at a hearing described in this section, the court may enter an order requiring the person to report as a sex offender under ORS 163A.025.

(7) At the hearing described in subsection (1) of this section:

(a) The district attorney, the victim, the person and the juvenile department or a representative of the Oregon Youth Authority shall have an opportunity to be heard.

(b) The person who is the subject of the hearing has the burden of proving by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public. If the court finds that the person has not met the burden of proof, the court shall enter an order requiring the person to report as a sex offender under ORS 163A.025.

(8) In determining whether the person has met the burden of proof, the juvenile court may consider but need not be limited to considering:

(a) The extent and impact of any physical or emotional injury to the victim;

(b) The nature of the act that subjected the person to the duty of reporting as a sex offender;

(c) Whether the person used or threatened to use force in committing the act;

(d) Whether the act was premeditated;

(e) Whether the person took advantage of a position of authority or trust in committing the act;

(f) The age of any victim at the time of the act, the age difference between any victim and the person and the number of victims;

(g) The vulnerability of the victim;

(h) Other acts committed by the person that would be crimes if committed by an adult and criminal activities engaged in by the person before and after the adjudication;

(i) Statements, documents and recommendations by or on behalf of the victim or the parents of the victim;

(j) The person's willingness to accept personal responsibility for the act and personal accountability for the consequences of the act;

(k) The person's ability and efforts to pay the victim's expenses for counseling and other trauma-related expenses or other efforts to mitigate the effects of the act;

(L) Whether the person has participated in and satisfactorily completed a sex offender treatment program or any other intervention, and if so the juvenile court may also consider:

(A) The availability, duration and extent of the treatment activities;

(B) Reports and recommendations from the providers of the treatment;

(C) The person's compliance with court, board or supervision requirements regarding treatment; and

(D) The quality and thoroughness of the treatment program;

(m) The person's academic and employment history;

(n) The person's use of drugs or alcohol before and after the adjudication;

(o) The person's history of public or private indecency;

(p) The person's compliance with and success in completing the terms of supervision;

(q) The results of psychological examinations of the person;

(r) The protection afforded the public by records of sex offender registration; and

(s) Any other relevant factors.

(9) In a hearing under this section, the juvenile court may receive testimony, reports and other evidence, without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585, if the evidence is relevant evidence related to the determination and findings required under this section. As used in this subsection, "relevant evidence" has the meaning given that term in ORS 40.150.

(10)(a) In a hearing under this section, the Oregon Youth Authority or the juvenile department, if either agency is supervising the person, or the Psychiatric Security Review Board, if the board has jurisdiction over the person, shall file with the juvenile court the following records and materials in the possession of the agency or board at least 45 days prior to the hearing unless good cause is shown:

(A) Evaluations and treatment records concerning the person conducted by a clinician or program operating under the standards of practice for the evaluation and treatment of juvenile sex offenders adopted by the Sexual Offense Treatment Board under ORS 675.400, and recommendations contained therein regarding the need for the person to register in order to protect the public from future sex crimes;

(B) All examination preparation material and examination records from polygraph examinations conducted by or for the treatment provider, juvenile department or Oregon Youth Authority; and

(C) The Psychiatric Security Review Board exhibit file.

(b) Any records and materials filed with the court under this subsection shall be made available to the parties in accordance with ORS 419A.255.

(11)(a) When the juvenile court enters an order described in subsection (6)(a) or (7)(b) of this section, the court shall ensure that the person completes a form that documents the person's obligation to report under ORS 163A.025. No later than three business days after the person completes the form required by this subsection, the court shall ensure that the form is sent to the Department of State Police.

(b) If the court enters an order under this section, no later than three business days after entry of the order, the court shall ensure that the order is sent to the Department of State Police.

(12) Notwithstanding ORS 419C.005 (4)(c), (d) and (e), the juvenile court retains jurisdiction over a person for purposes of this section.

(13) As used in this section, “parties” means the person, the state as represented by the district attorney or the juvenile department, and the Oregon Youth Authority or other child care agency, if the person is temporarily committed to the authority or agency.

SECTION 34. ORS 163A.035 is amended to read:

163A.035. (1) Agencies registering offenders under ORS 163A.010, 163A.015, 163A.020 and 163A.025 shall use forms and procedures adopted by the Department of State Police by administrative rule. The department shall include places on the form to list all the names used by the offender and the address of the offender. No later than three working days after registration, the agency or official completing the form shall forward the registration information to the department in the manner prescribed by the department.

(2) The department shall enter into the Law Enforcement Data System the sex offender information obtained from the sex offender registration forms. If a conviction or adjudication that gave rise to the registration obligation is reversed or vacated or if the registrant is pardoned, the department shall remove from the Law Enforcement Data System the sex offender information obtained from the form.

(3) The Law Enforcement Data System may send sex offender information to the National Crime Information Center as part of the national sex offender registry in accordance with appropriate state and federal procedures.

(4) If the person is no longer under supervision, the department shall verify the residence address of a person determined to be a sexually violent dangerous offender as defined in ORS 137.765 every 90 days by mailing a verification form to the person at the person’s last reported residence address. No later than 10 days after receiving the form, the person shall sign and return the form to the department.

(5) The department shall assess a person who is required to report under ORS 163A.010, 163A.015[,] or 163A.020 [or 163A.025] and who is not under supervision a fee of \$70 each year. Moneys received by the department under this subsection are continuously appropriated to the department for the purpose of carrying out the department’s duties under ORS 163A.005 to 163A.235.

SECTION 35. ORS 163A.130 is amended to read:

163A.130. (1) A person required to report as a sex offender under ORS 163A.025 (1)(a), (b) or (c), or required to report as a sex offender under the laws of another state as a result of an adjudication in an Oregon juvenile court, may file a petition for an order relieving the person of the obligation to report. [*The person must pay the filing fee established under ORS 21.135.*] If the person resides:

(a) In this state and is required to report under ORS 163A.025 (2) or (3), the petition must be filed in the juvenile court in which the person was adjudicated for the act that requires reporting.

(b) In another state and is required to report under ORS 163A.025 (4), the petition must be filed in the juvenile court in the county in which the person attends school or works.

(c) In another state and is required to report under the laws of the other state, the petition must be filed in the juvenile court in which the person was adjudicated for the act that requires reporting.

(2) If the act giving rise to the obligation to report would constitute:

(a) A Class A or Class B felony sex crime if committed by an adult, the petition may be filed no sooner than two years after the termination of juvenile court jurisdiction over the person or, if the person is placed under the jurisdiction of the Psychiatric Security Review Board, no sooner than two years after the person is discharged from the jurisdiction of the board.

(b) A Class C felony sex crime if committed by an adult, the petition may be filed no sooner than 30 days before the termination of juvenile court jurisdiction over the person or, if the person is placed under the jurisdiction of the Psychiatric Security Review Board, no sooner than 30 days before the person is discharged from the jurisdiction of the board.

(3)(a) The juvenile court in which a petition under this section is filed may transfer the matter to the juvenile court of the county that last supervised the person if the court determines that the convenience of the parties, the victim and witnesses require the transfer.

(b) The juvenile court has exclusive original jurisdiction in any proceeding under this section.

(c) The person, the district attorney and the juvenile department are parties to a hearing on a petition filed under this section.

(4) The person filing the petition has the burden of proving by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public. In determining whether the person has met the burden of proof, the juvenile court may consider but need not be limited to considering:

- (a) The extent and impact of any physical or emotional injury to the victim;
 - (b) The nature of the act that subjected the person to the obligation of reporting as a sex offender;
 - (c) Whether the person used or threatened to use force in committing the act;
 - (d) Whether the act was premeditated;
 - (e) Whether the person took advantage of a position of authority or trust in committing the act;
 - (f) The age of any victim at the time of the act, the age difference between any victim and the person and the number of victims;
 - (g) The vulnerability of the victim;
 - (h) Other acts committed by the person that would be crimes if committed by an adult and criminal activities engaged in by the person before and after the adjudication;
 - (i) Statements, documents and recommendations by or on behalf of the victim or the parents of the victim;
 - (j) The person's willingness to accept personal responsibility for the act and personal accountability for the consequences of the act;
 - (k) The person's ability and efforts to pay the victim's expenses for counseling and other trauma-related expenses or other efforts to mitigate the effects of the act;
 - (L) Whether the person has participated in and satisfactorily completed a sex offender treatment program or any other intervention, and if so the juvenile court may also consider:
 - (A) The availability, duration and extent of the treatment activities;
 - (B) Reports and recommendations from the providers of the treatment;
 - (C) The person's compliance with court, board or supervision requirements regarding treatment;
- and
- (D) The quality and thoroughness of the treatment program;
 - (m) The person's academic and employment history;
 - (n) The person's use of drugs or alcohol before and after the adjudication;
 - (o) The person's history of public or private indecency;
 - (p) The person's compliance with and success in completing the terms of supervision;
 - (q) The results of psychological examinations of the person;
 - (r) The protection afforded the public by the continued existence of the records; and
 - (s) Any other relevant factors.

(5) In a hearing under this section, the juvenile court may receive testimony, reports and other evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is relevant to the determination and findings required under this section. As used in this subsection, "relevant evidence" has the meaning given that term in ORS 40.150.

(6) When a petition is filed under this section, the state has the right to have a psychosexual evaluation of the person conducted. The state shall file notice with the juvenile court of its intention to have the person evaluated. If the person objects to the evaluator chosen by the state, the juvenile court for good cause shown may direct the state to select a different evaluator.

(7) As soon as practicable after a petition has been filed under this section, the district attorney or juvenile department shall make a reasonable effort to notify the victim of the crime that the person has filed a petition seeking relief under this section and, if the victim has requested, to inform the victim of the date, time and place of a hearing on the petition in advance of the hearing.

(8)(a) When a petition filed under this section is filed:

(A) While the person is under the jurisdiction of the juvenile court or the Psychiatric Security Review Board or less than three years after the date the jurisdiction is terminated, the court shall hold a hearing no sooner than 60 days and no later than 120 days after the date of filing.

(B) Three years or more after the date the juvenile court or board jurisdiction is terminated, the court shall hold a hearing no sooner than 90 days and no later than 150 days after the date of filing.

(b) Notwithstanding paragraph (a) of this subsection, upon a showing of good cause, the court may extend the period of time in which a hearing on the petition must be held.

(9)(a) When the person proves by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public, the court shall grant the petition.

(b) Notwithstanding paragraph (a) of this subsection, the court may not grant a petition filed under this section before the date the juvenile court or board jurisdiction over the person is terminated.

(10) When a juvenile court enters an order relieving a person of the requirement to report under ORS 163A.025, the person shall send a certified copy of the juvenile court order to the Department of State Police.

(11) If a person commits an act for which the person could be waived under ORS 419C.349 (1)(a) and the person is 15, 16 or 17 years of age at the time the act is committed, the state and the person may stipulate that the person may not petition for relief under this section as part of an agreement that the state not file a motion requesting waiver under ORS 419C.349 (1)(a).

(12) When a petition is filed under subsection (2)(b) of this section before the termination of juvenile court or board jurisdiction, *[if the person, or the parent or guardian of the person if the person is less than 18 years of age, requests counsel and is without sufficient financial means to employ suitable counsel to represent the person, for purposes of the petition described in this section,]* the court shall appoint suitable counsel to represent the person **for purposes of the petition described in this section if the appointment of counsel is requested by the person or, if the person is under 18 years of age, by the parent or guardian of the person.** Appointment of counsel under this subsection is subject to ORS 419C.200, *[419C.203,]* 419C.206 and 419C.209.

SECTION 36. ORS 163A.135 is amended to read:

163A.135. (1) Except as provided in subsection (7) of this section, a person required to report under ORS 163A.025 (1)(d) may file a petition in the juvenile court for an order relieving the person of the duty to report. *[The person must pay the filing fee established under ORS 21.135.]* If the person resides:

(a) In this state and is required to report under ORS 163A.025 (2) or (3), the petition must be filed in the juvenile court of the county in which the person resides.

(b) In another state and is required to report under ORS 163A.025 (4), the petition must be filed in the juvenile court of the county in which the person attends school or works.

(2) If the act giving rise to the obligation to report would constitute:

(a) A Class A or Class B felony sex crime if committed in this state by an adult, the petition may be filed no sooner than two years after the termination of the other United States court's jurisdiction over the person.

(b) A Class C felony sex crime if committed in this state by an adult, the petition may be filed no sooner than 30 days before the termination of the other United States court's jurisdiction over the person.

(3) The person filing the petition must submit with the petition all releases and waivers necessary to allow the district attorney for the county in which the petition is filed to obtain the following documents from the jurisdiction in which the person was adjudicated for the act for which reporting is required:

(a) The juvenile court petition;

(b) The dispositional report to the court;

(c) The order of adjudication or jurisdiction;

(d) Any other relevant court documents;

(e) The police report relating to the act for which reporting is required;

(f) The order terminating jurisdiction for the act for which reporting is required; and
(g) The evaluation and treatment records or reports of the person that are related to the act for which reporting is required.

(4) A person filing a petition under this section has the burden of proving by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public.

(5) Unless the court finds good cause for a continuance, the court shall hold a hearing on the petition no sooner than 90 days and no later than 150 days after the date the petition is filed.

(6) If a person who files a petition under this section is required to report as a sex offender for having committed an act that if committed in this state could have subjected the person to waiver under ORS 419C.349 (1)(a), the court may not grant the petition notwithstanding the fact that the person has met the burden of proof established in subsection (4) of this section unless the court determines that to do so is in the interest of public safety.

(7) This section does not apply to a person who is required to register as a sex offender for life in the jurisdiction in which the offense occurred.

(8) In a hearing under this section, the court may receive testimony, reports and other evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is relevant to the determination and findings required under this section. As used in this subsection, "relevant evidence" has the meaning given that term in ORS 40.150.

(9) If the court is satisfied by clear and convincing evidence that the person is rehabilitated and that the person does not pose a threat to the safety of the public, the court shall enter an order relieving the person of the duty to report. When the court enters an order under this subsection, the person shall send a certified copy of the court order to the Department of State Police.

UNITARY ASSESSMENT

SECTION 36a. Section 1, chapter 89, Oregon Laws 2012, is amended to read:

Sec. 1. (1) ORS 153.633 applies only to offenses that are committed on or after January 1, 2012.

(2) The repeal of ORS 137.290 by section 118, chapter 597, Oregon Laws 2011, applies [*only to offenses*] **to an offense only if the offense was committed on or after January 1, 2012, or, if the offense was committed before January 1, 2012, if the offense arises from the actions of a person who was under 18 years of age at the time of the offense and who was not waived to circuit court for prosecution as an adult under ORS 419C.340.** Except as provided in this section, any offense committed before January 1, 2012, shall continue to be governed by ORS 137.290 as in effect immediately before January 1, 2012, and all amounts collected as a unitary assessment for offenses committed before January 1, 2012, shall be deposited in the Criminal Fine Account.

REPEALED STATUTES

SECTION 37. ORS 419C.203, 419C.449, 419C.459, 419C.590, 419C.592, 419C.595, 419C.597 and 419C.600 are repealed.

SECTION 37a. Notwithstanding sections 71 (amending ORS 419C.449), 75 (amending ORS 419C.459), 99 (amending ORS 419C.590), 100 (amending ORS 419C.595), 101 (amending 419C.597) and 102 (amending ORS 419C.600), chapter ___, Oregon Laws 2021 (Enrolled Senate Bill 436), if Senate Bill 436 becomes law, ORS 419C.449, 419C.459, 419C.590, 419C.595, 419C.597 and 419C.600 are repealed by section 37 of this 2021 Act.

CONFORMING AMENDMENTS

SECTION 38. ORS 18.005 is amended to read:

18.005. As used in this chapter:

(1) "Action" means any proceeding commenced in a court in which the court may render a judgment.

(2) "Child support award" means a money award or agency order that requires the payment of child support and that is entered under ORS 25.501 to 25.556, 108.010 to 108.550, 416.310 to 416.340, 416.510 to 416.990[,] or 419B.400 [or 419C.590] or ORS chapter 25, 107, 109 or 110.

(3) "Civil action" means any action that is not a criminal action.

(4) "Court administrator" means a trial court administrator in a circuit court that has a trial court administrator and the clerk of the court in all other courts.

(5) "Criminal action" has the meaning given in ORS 131.005.

(6) "Execution" means enforcement of the money award portion of a judgment or enforcement of a judgment requiring delivery of the possession or sale of specific real or personal property, by means of writs of execution, writs of garnishment and other statutory or common law writs or remedies that may be available under the law.

(7) "General judgment" means the judgment entered by a court that decides all requests for relief in the action except:

(a) A request for relief previously decided by a limited judgment; and

(b) A request for relief that may be decided by a supplemental judgment.

(8) "Judgment" means the concluding decision of a court on one or more requests for relief in one or more actions, as reflected in a judgment document.

(9) "Judgment document" means a writing in the form provided by ORS 18.038 that incorporates a court's judgment.

(10) "Judgment lien" means:

(a) The effect of a judgment on real property as described in ORS 18.150 (2) and (3) for the county in which the judgment is entered, and as described in ORS 18.152 (2) and (3) for a county in which the judgment is recorded under ORS 18.152; and

(b) A support arrearage lien attaching to real property under ORS 18.150 (3) or 18.152 (3).

(11) "Judgment remedy" means:

(a) The ability of a judgment creditor to enforce a judgment through execution; and

(b) Any judgment lien arising under ORS 18.150 or 18.152.

(12) "Legal authority" means:

(a) A statute;

(b) An Oregon Rule of Civil Procedure;

(c) A rule or order of the Chief Justice of the Supreme Court adopted under ORS 18.028; and

(d) All controlling appellate court decisions in effect December 31, 2003.

(13) "Limited judgment" means:

(a) A judgment entered under ORCP 67 B or 67 G;

(b) A judgment entered before the conclusion of an action in a circuit court for the partition of real property, defining the rights of the parties to the action and directing sale or partition;

(c) An interlocutory judgment foreclosing an interest in real property; and

(d) A judgment rendered before entry of a general judgment in an action that disposes of at least one but fewer than all requests for relief in the action and that is rendered pursuant to a legal authority that specifically authorizes that disposition by limited judgment.

(14) "Money award" means a judgment or portion of a judgment that requires the payment of money.

(15) "Person" includes a public body as defined in ORS 174.109.

(16) "Request for relief" means a claim, a charge in a criminal action or any other request for a determination of the rights and liabilities of one or more parties in an action that a legal authority allows the court to decide by a judgment.

(17) "Supplemental judgment" means a judgment that may be rendered after a general judgment pursuant to a legal authority.

(18) "Support arrearage lien" means a lien that attaches to real property under the provisions of ORS 18.150 (3) or 18.152 (3).

(19) "Support award" means a money award or agency order that requires the payment of child or spousal support.

SECTION 39. ORS 18.205 is amended to read:

18.205. (1) A judgment creditor may assign all or part of the creditor's rights under a judgment. An assignment of judgment document must be signed by the judgment creditor, by the judgment creditor's agent or by an attorney who represents the judgment creditor. Signature by the judgment creditor's agent is not subject to the requirement of ORS 9.320 that a party that is not a natural person appear by an attorney in all cases. The signature must be acknowledged by a notary public. The document may be:

(a) Filed with the court administrator for the court in which the judgment was entered, and upon such filing shall be entered in the register and in the judgment lien record; or

(b) Recorded in any County Clerk Lien Record in which the judgment was recorded under ORS 18.152.

(2) Upon filing or recording under this section, an assignment of judgment document operates to assign the judgment creditor's rights under the judgment to the extent reflected in the document.

(3) If this or another state is assigned or subrogated to the support rights of a person under ORS 412.024, 418.032[,] or 419B.406 [or 419C.597] or similar statutes of another state, an assignment of judgment document bearing the signature of the Administrator of the Division of Child Support of the Department of Justice or the authorized representative of the administrator may be filed or recorded in the same manner as an assignment of judgment document under subsection (1) of this section and shall have the same effect as an assignment of judgment document signed by the judgment creditor.

(4) This section does not apply to justice courts, municipal courts or county courts performing judicial functions.

SECTION 40. ORS 18.375 is amended to read:

18.375. As used in this section and ORS 18.385:

(1) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amounts required to be withheld by law.

(2) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise, and includes periodic payments pursuant to a pension or retirement program.

(3) "Employer" means any entity or individual who engages a person to perform work or services for which compensation is given in periodic payments or otherwise, even though the relationship of the person so engaged to the employer may be as an independent contractor for other purposes.

(4) "Garnishment" means any legal or equitable procedure through which the earnings of an individual are required to be withheld for payment of a debt. "Garnishment" does not include the procedure authorized by ORS 25.372 to 25.427[,] or 419B.408 [or 419C.600] or ORS chapter 110.

SECTION 41. ORS 18.385 is amended to read:

18.385. (1) Except as provided in this section, 75 percent of the disposable earnings of an individual are exempt from execution.

(2) The disposable earnings of an individual are exempt from execution to the extent that payment under a garnishment would result in net disposable earnings for an individual of less than the following amounts:

(a) \$254 for any period of one week or less;

(b) \$509 for any two-week period;

(c) \$545 for any half-month period;

(d) \$1,090 for any one-month period; and

(e) For any other period longer than one week, \$254 multiplied by that fraction produced by dividing the number of days for which the earnings are paid by seven. The amount calculated under this paragraph must be rounded to the nearest dollar.

(3) If an individual is paid for a period shorter than one week, the exemption calculated under subsection (2) of this section may not exceed \$254 for any one-week period.

(4) An employer shall deduct from the amount of disposable earnings determined to be nonexempt under subsections (1) to (3) of this section any amounts withheld from the individual's earnings for the same period of time under an order issued pursuant to ORS 25.378[,] **or** 419B.408 [or 419C.600] or ORS chapter 110. The employer shall make payment under a garnishment only of those amounts remaining after the deduction is made.

(5) Subsections (1) to (4) of this section do not apply to:

(a) Any order of a court of bankruptcy.

(b) Any debt due for federal tax.

(6) Subsections (2) to (4) of this section do not apply to any debt due for state tax. Subsection (1) of this section does not apply to a debt due for state tax if a state agency issues a special notice of garnishment under ORS 18.855 (6).

(7) A court may not make, execute or enforce any order or process in violation of this section.

(8) Any waiver by an individual of the provisions of this section is void.

(9) An employer may not discharge any individual because the individual has had earnings garnished.

SECTION 42. ORS 18.398 is amended to read:

18.398. (1) It is the policy of this state:

(a) To afford protection to the debtor and the debtor's family homestead through the homestead exemption;

(b) To maintain dependent children from the financial resources of both parents of those children;

(c) That the homestead exemption should not be permitted to serve as a shield for a debtor's evasion of child support obligations;

(d) That the burden for that support should not be shifted in all cases to the present family of the debtor through the sale of the family residence; and

(e) That to accommodate these policies, the court should have the discretion to decline to allow all or part of a claimed homestead exemption in cases involving child support as provided in this section.

(2) Notwithstanding ORS 18.395 to 18.422, a court in its discretion may decline to allow a homestead exemption in whole or part in any proceeding under ORS 18.912 if the proceeding is based on a judgment for child support that arises out of an order or judgment under ORS 24.115, 25.501 to 25.556, 107.095, 107.105, 107.135, 108.120, 109.100, 109.103, 109.155, 109.165[,] **or** 419B.400 [or 419C.590] or ORS chapter 110 or 125.

(3) In exercising the discretion granted under subsection (1) of this section, the court shall consider:

(a) The financial resources of both parties;

(b) The number of dependents of each of the parties;

(c) The ages, health and conditions of parties and their dependents;

(d) The child support payment history of the judgment debtor on the judgment which is the subject of the petition; and

(e) Other collection attempts by the judgment creditor on the judgment which is the subject of the petition.

(4) This section shall not apply to any proceeding under ORS 18.912 brought by or on the behalf of the state or any agency of the state.

SECTION 43. ORS 25.020 is amended to read:

25.020. (1) Support payments for or on behalf of any person that are ordered, registered or filed under ORS 25.501 to 25.556 or this chapter or ORS chapter 107, 108, 109, 110, 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[,] **or** 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 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.

(c) 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 parentage or including a provision concerning support must contain:

(A) The residence, mailing or contact address, final four digits of the Social Security number, telephone number and final four digits of the 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 parentage 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 192.355.

(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 25.501 to 25.556 and ORS chapters 107, 108, 109, 110, 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)(a) 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 party to whom unpaid support is owed and the obligor agree in writing that specific payments were made and should be credited;

(B) 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

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

(b) The 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.

(13) An obligor may apply to the Department of Justice for credit for payments made other than to the Department of Justice. If the party to whom unpaid support is owed does not provide the agreement 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 the obligor and the party to whom unpaid support is owed. Notice shall be served upon the party to whom unpaid support is owed 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 or credited by the department are to be applied and, if applicable, disbursed; and

(b) Are consistent with federal regulations.

SECTION 44. ORS 25.080 is amended to read:

25.080. (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 25.501 to 25.556[,] **or** 419B.400 [*or* 419C.590] or ORS chapter 107, 108, 109 or 110. 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 25.502; 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 25.503.

(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.

SECTION 45. ORS 25.089 is amended to read:

25.089. (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 25.529, 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 25.529 has all the force, effect and attributes of a circuit court judgment. The judgment lien created by a child support judgment originating under ORS 25.529 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 25.501 to 25.556 or ORS chapter 110.

(b) Until the underlying order is filed under ORS 25.529, 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 25.529 may be taken while the child support judgment is stayed under ORS 25.513, 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 or 110 or ORS 25.501 to 25.556, 125.025[,] **or** 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 25.501, 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 25.531.

(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.

SECTION 46. ORS 25.091 is amended to read:

25.091. (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 25.531, 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 designate an auxiliary court under 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 25.540, 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 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 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 or 109 or ORS 25.501 to 25.556, 125.025, 419B.400, 419B.923[*419C.590*] or 419C.610.

SECTION 47. ORS 25.100 is amended to read:

25.100. (1) With respect to any order or judgment entered pursuant to ORS 25.501 to 25.556, 107.095, 107.105, 108.120, 109.155[,] **or** 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, enter an order designating 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, as an auxiliary court for purposes of the order or judgment.

(2) The clerk of the circuit court in which the original order or judgment was entered shall notify the auxiliary court of the order designating the auxiliary court.

SECTION 48. ORS 25.240 is amended to read:

25.240. Notwithstanding any other law, when a court or the administrator has the authority under ORS chapter 107, 108, 109 or 110 or ORS 25.501 to 25.556[,] **or** 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, the court or administrator may require a parent with legal custody to pay support for the child as long as that parent does not have physical custody of the child or is not providing the child with the necessities of life, including but not limited to lodging, food and clothing.

SECTION 49. ORS 25.247 is amended to read:

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

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

(3) Within 30 days following identification of an obligor described in subsection (1) of this section whose child support obligation has not already been modified due to incarceration, 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 first day of the first month that follows the obligor becoming incarcerated for a period of at least 180 consecutive days and continuing through the support payment due in the last month prior to the reinstatement of the support order as provided in subsection (6) of this section. The entity 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 the obligor became incarcerated 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 that served the notice under subsection (3) of this section within 30 days after the date of service of the notice. The objection must describe the resources of the obligor or other evidence that rebuts 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 administrator 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 court's or administrative law judge's order.

(6) An order that has been suspended as provided in this section will automatically be reinstated at 50 percent of the previously ordered support amount on the first day of the first month that follows the 120th day after the obligor's release from incarceration.

(7)(a) Within 30 days following reinstatement of the order pursuant to subsection (6) of this section, the administrator shall provide notice to all parties to the support order:

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

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

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

(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 support 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.

(8) Within 60 days of the reinstatement under subsection (6) of this section, the administrator shall review the support order for purposes of modifying the support order.

(9) An obligor's incarceration for at least 180 consecutive days or an obligor's release from incarceration is considered a substantial change of circumstances for purposes of child support modification proceedings.

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

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

(12) The provisions of subsections (1), (9) and (10) of this section apply regardless of whether child support enforcement services are being provided under Title IV-D of the Social Security Act.

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

(14) As used in this section, "support order" means a judgment or administrative order that creates child support rights and that is entered or issued under ORS 25.501 to 25.556[,] or 419B.400 [or 419C.590] or this chapter or ORS chapter 107, 108, 109 or 110.

SECTION 50. ORS 25.280 is amended to read:

25.280. In any judicial or administrative proceeding for the establishment or modification of a child support obligation under ORS chapter 107, 108, 109 or 110 or ORS 25.501 to 25.556, 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 that of a spouse.

SECTION 51. ORS 25.287 is amended to read:

25.287. (1)(a) The entity providing support enforcement services under ORS 25.080 may initiate proceedings to modify a support obligation to ensure that the support obligation is in accordance with the formula established under ORS 25.275.

(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 latest 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 appeal the administrator's decision under ORS 183.484.

(f) If the court, the administrator or an 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 25.513 and 25.527.

(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 or 110 or ORS 25.501 to 25.556[,] **or** 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 25.501 to 25.556, 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, 125.025[,] **or** 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 110.503, 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.

SECTION 52. ORS 25.321 is amended to read:

25.321. 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 25.501 to 25.556[,] **or** 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) "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.

(12) "Public body" has the meaning given that term in ORS 174.109.

SECTION 53. ORS 25.511 is amended to read:

25.511. (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, 25.527, 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, 125.025[,] **or** 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 110.503, 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 ad-

dressed 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 25.501 to 25.556;

(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 25.513.

(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 at-

torney 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.

SECTION 54. ORS 25.527 is amended to read:

25.527. (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, 25.511, 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, 125.025[,] or 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 110.503, 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 25.511 (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 25.513.

(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 25.513, 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 25.529 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 obligor's incarceration for a period of at least 180 consecutive days or an obligor's release from incarceration is considered a substantial change of circumstances for purposes of proceedings brought under this section.

(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 25.505.

(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 25.513 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 25.529 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 25.513 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.

SECTION 55. ORS 25.720 is amended to read:

25.720. (1) Except as provided in ORS 25.125, 412.024, 418.032[,] **or** 419B.406 [*or* 419C.597] or subsection (2) of this section, the right to receive child or spousal support payments under ORS 25.501 to 25.556 and ORS chapters 107, 108, 109, 110, 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.

SECTION 56. ORS 87.450 is amended to read:

87.450. (1) When an attorney claims a lien under ORS 87.445, if the judgment is for a sum of money only, the attorney must file a notice of claim of lien with the clerk of the court that entered the judgment within three years after the judgment is entered. The clerk shall enter the notice in the register of the court and in the judgment lien record maintained by the court administrator under ORS 18.075.

(2) When an attorney files a notice of claim of lien under subsection (1) of this section, the attorney shall send forthwith a copy of the notice to the client by registered or certified mail sent to the client at the last-known address of the client.

(3) A lien under ORS 87.445 on a judgment for a sum of money only remains a lien on the judgment until the judgment remedies for the judgment expire under ORS 18.180 to 18.190.

(4) For purposes of this section, a "judgment for a sum of money only" does not include a judgment or order for the payment of money for the support of any person under ORS 107.095, 107.105, 108.120, 109.155[,] **or** 419B.400 [*or* 419C.590].

SECTION 57. ORS 107.085 is amended to read:

107.085. (1) A suit for marital annulment, dissolution or separation shall be entitled: "IN THE MATTER OF THE MARRIAGE OF (names of parties): PETITION FOR (ultimate relief sought)." The moving party shall be designated as the "Petitioner" and the other party the "Respondent." Nothing in this section shall preclude both parties from acting as "Copetitioners."

(2) The petitioner shall state the following in the petition:

(a) The names and dates of birth of all of the children born or adopted during the marriage, and a reference to and expected date of birth of any children conceived during the marriage but not yet born;

(b) The names and dates of birth of all children born to the parties prior to the marriage;

(c) To the extent known:

(A) Whether there is pending in this state or any other jurisdiction a domestic relations suit, as defined in ORS 107.510;

(B) Whether there is pending in this state or any other jurisdiction any type of support proceeding involving dependents of the same marriage, including one brought under this section or ORS 25.501 to 25.556, 108.110, 109.100, 125.025[,] **or** 419B.400 [*or* 419C.590] or ORS chapter 110;

(C) Whether there exists in this state or any other jurisdiction a support order, as defined in ORS 110.503, involving dependents of the same marriage; and

(D) Whether there exists in this state or any other jurisdiction a protective order between the parties as authorized by ORS 30.866, 107.700 to 107.735, 124.005 to 124.040, 163.730 to 163.750 or 163.760 to 163.777, or any other order that restrains one of the parties from contact with the other party or with the parties' minor children; and

(d) That the petitioner acknowledges that by filing the petition the petitioner is bound by the terms of the restraining order issued under ORS 107.093.

(3) The petitioner shall include with the petition a certificate regarding any pending support proceeding and any existing support order. The petitioner shall use a certificate that is in a form established by court rule and include information required by court rule and subsection (2)(c)(B) and (C) of this section.

(4) At or prior to the hearing of a suit for marital annulment, dissolution or separation, the moving party or the party attending the hearing shall file with the court a written statement setting forth the full names and any former names of the parties, the residence, mailing or contact addresses of the parties, the ages of both parties, the date and place of the marriage of the parties, and the names and ages of the children born to or adopted by the parties. This information shall be incorporated in and made a part of the judgment.

(5) If real property is involved, the petitioner may have a notice of pendency of the action recorded at the time the petition is filed, as provided in ORS 93.740.

(6) The Social Security numbers of the parties and of the children born or adopted during the marriage and children born to the parties prior to the marriage shall be provided as established in ORS 107.840.

SECTION 58. ORS 107.106 is amended to read:

107.106. (1) An order or judgment providing for the custody, parenting time, visitation or support of a child under ORS chapter 25, 107, 108, 109 or 110 or ORS 419B.400 [*or* 419C.590] shall include:

(a) Provisions addressing the issues of:

(A) Payment of uninsured medical expenses of the child;

(B) Maintenance of insurance or other security for support; and

(C) Medical support for the child under ORS 25.321 to 25.343.

(b) A statement in substantially the following form:

The terms of child support and parenting time (visitation) are designed for the child's benefit and not the parents' benefit. You must pay support even if you are not receiving visitation. You must comply with visitation orders even if you are not receiving child support.

Violation of child support orders and visitation orders is punishable by fine, imprisonment or other penalties.

Publicly funded help is available to establish, enforce and modify child support orders. Paternity establishment services are also available. Contact your local district attorney or the Department of Justice at (503) 373-7300 for information.

Publicly funded help may be available to establish, enforce and modify visitation orders. Forms are available to enforce visitation orders. Contact the domestic relations court clerk or civil court clerk for information.

(2) The court or administrative law judge shall ensure the creation and filing of an order or judgment that complies with this section.

(3) This section does not apply to an action undertaken by the Division of Child Support of the Department of Justice or a district attorney under ORS 25.080.

SECTION 59. ORS 107.135 is amended to read:

107.135. (1) The court may at any time after a judgment of annulment or dissolution of marriage or of separation is granted, upon the motion of either party and after service of notice on the other party in the manner provided by ORCP 7, and after notice to the Division of Child Support when required under subsection (9) of this section:

(a) Set aside, alter or modify any portion of the judgment that provides for the appointment and duties of trustees, for the custody, parenting time, visitation, support and welfare of the minor children and the children attending school, as defined in ORS 107.108, including any health or life insurance provisions, for the support of a party or for life insurance under ORS 107.820 or 107.830;

(b) Make an order, after service of notice to the other party, providing for the future custody, support and welfare of minor children residing in the state, who, at the time the judgment was given, were not residents of the state, or were unknown to the court or were erroneously omitted from the judgment;

(c) Terminate a duty of support toward any minor child who has become self-supporting, emancipated or married;

(d) After service of notice on the child in the manner provided by law for service of a summons, suspend future support for any child who has ceased to be a child attending school as defined in ORS 107.108; and

(e) Set aside, alter or modify any portion of the judgment that provides for a property award based on the enhanced earning capacity of a party that was awarded before October 23, 1999. A property award may be set aside, altered or modified under this paragraph:

(A) When the person with the enhanced earning capacity makes a good faith career change that results in less income;

(B) When the income of the person with the enhanced earning capacity decreases due to circumstances beyond the person's control; or

(C) Under such other circumstances as the court deems just and proper.

(2) When a party moves to set aside, alter or modify the child support provisions of the judgment:

(a) The 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 children of the marriage, including one brought under ORS 25.287, 25.501 to 25.556, 107.431, 109.100, 125.025[,] **or** 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 110.503, involving children of the marriage, other than the judgment the party is moving to set aside, alter or modify.

(b) The party shall include with the motion a certificate regarding any pending support proceeding and any existing support order other than the judgment the party is moving to set aside, alter or modify. The party shall use a certificate that is in a form established by court rule and include information required by court rule and paragraph (a) of this subsection.

(3) In a proceeding under this section to reconsider the spousal or child support provisions of the judgment, the following provisions apply:

(a) A substantial change in economic circumstances of a party, which may include, but is not limited to, a substantial change in the cost of reasonable and necessary expenses to either party, is

sufficient for the court to reconsider its order of support, except that an order of compensatory spousal support may only be modified upon a showing of an involuntary, extraordinary and unanticipated change in circumstances that reduces the earning capacity of the paying spouse.

(b) If the judgment provided for a termination or reduction of spousal support at a designated age in anticipation of the commencement of pension, Social Security or other entitlement payments, and if the obligee is unable to obtain the anticipated entitlement payments, that inability is sufficient change in circumstances for the court to reconsider its order of support.

(c) If Social Security is considered in lieu of spousal support or partial spousal support, the court shall determine the amount of Social Security the party is eligible to collect. The court shall take into consideration any pension, retirement or other funds available to either party to effect an equitable distribution between the parties and shall also take into consideration any reduction of entitlement caused by taking early retirement.

(4) In considering under this section whether a change in circumstances exists sufficient for the court to reconsider spousal or child support provisions of a judgment, the following provisions apply:

(a) The court or administrator, as defined in ORS 25.010, shall consider income opportunities and benefits of the respective parties from all sources, including but not limited to:

(A) The reasonable opportunity of each party, the obligor and obligee respectively, to acquire future income and assets.

(B) Retirement benefits available to the obligor and to the obligee.

(C) Other benefits to which the obligor is entitled, such as travel benefits, recreational benefits and medical benefits, contrasted with benefits to which the obligee is similarly entitled.

(D) Social Security benefits paid to a 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 if the benefits:

(i) Were not previously considered in the child support order; or

(ii) Were considered in an action initiated before May 12, 2003.

(E) Apportioned Veterans' benefits or Survivors' and Dependents' Educational Assistance under 38 U.S.C. chapter 35 paid to a 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 if the benefits:

(i) Were not previously considered in the child support order; or

(ii) Were considered in an action initiated before May 12, 2003.

(b) An obligee's conviction for the attempted murder or conspiracy to commit the murder of the obligor qualifies as a change in circumstances sufficient for reconsideration of support provisions.

(c) If the motion for modification is one made by the obligor to reduce or terminate support, and if the obligee opposes the motion, the court shall not find a change in circumstances sufficient for reconsideration of support provisions, if the motion is based upon a reduction of the obligor's financial status resulting from the obligor's taking voluntary retirement, partial voluntary retirement or any other voluntary reduction of income or self-imposed curtailment of earning capacity, if it is shown that such action of the obligor was not taken in good faith but was for the primary purpose of avoiding the support obligation. In any subsequent motion for modification, the court shall deny the motion if the sole basis of the motion for modification is the termination of voluntarily taken retirement benefits and the obligor previously has been found not to have acted in good faith.

(d) The court shall consider the following factors in deciding whether the actions of the obligor were not in "good faith":

(A) Timing of the voluntary retirement or other reduction in financial status to coincide with court action in which the obligee seeks or is granted an increase in spousal support.

(B) Whether all or most of the income producing assets and property were awarded to the obligor, and spousal support in lieu of such property was awarded to the obligee.

(C) Extent of the obligor's dissipation of funds and assets prior to the voluntary retirement or soon after filing for the change of circumstances based on retirement.

(D) If earned income is reduced and absent dissipation of funds or large gifts, whether the obligor has funds and assets from which the spousal support could have been paid.

(E) Whether the obligor has given gifts of substantial value to others, including a current spouse, to the detriment of the obligor's ability to meet the preexisting obligation of spousal support.

(5) Upon terminating a duty of spousal support, a court shall make specific findings of the basis for the termination and shall include the findings in the judgment.

(6) Any modification of child or spousal support granted because of a change of circumstances may be ordered effective retroactive to the date the motion for modification was served or to any date thereafter.

(7) The judgment is final as to any installment or payment of money that has accrued up to the time the nonmoving party, other than the state, is served with a motion to modify the judgment. The court may not modify any portion of the judgment that provides for any payment of money, either for minor children or for the support of a party, that has accrued before the motion is served. However:

(a) The court 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 court may allow, as provided in the rules of the Child Support Program, a dollar-for-dollar 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 an obligor's disability or retirement.

(8) In a proceeding under subsection (1) of this section, the court may assess against either party a reasonable attorney fee and costs for the benefit of the other party. If a party is found to have acted in bad faith, the court shall order that party to pay a reasonable attorney fee and costs of the defending party.

(9) Whenever a motion to establish, modify or terminate child support or satisfy or alter support arrearages is filed and the child support rights of one of the parties or of a child of both of the parties have been assigned to the state, a true copy of the motion shall be served by mail or personal delivery on the Administrator of the Division of Child Support of the Department of Justice or on the branch office providing support services to the county in which the motion is filed.

(10)(a) Except as provided in ORS 109.701 to 109.834, the courts of Oregon, having once acquired personal and subject matter jurisdiction in a domestic relations action, retain such jurisdiction regardless of any change of domicile.

(b) The courts of Oregon, in a proceeding to establish, enforce or modify a child support order, shall recognize the provisions of the federal Full Faith and Credit for Child Support Orders Act (28 U.S.C. 1738B).

(11) In a proceeding under this section to reconsider provisions in a judgment relating to custody or parenting time, the court may consider repeated and unreasonable denial of, or interference with, parenting time to be a substantial change of circumstances.

(12) In a proceeding under this section to reconsider provisions in a judgment relating to parenting time, the court may suspend or terminate a parent's parenting time with a child if the court finds that the parent has abused a controlled substance and that the parenting time is not in the best interests of the child. If a court has suspended or terminated a parent's parenting time with a child for reasons described in this subsection, the court may not grant the parent future parenting time until the parent has shown that the reasons for the suspension or termination are resolved and that reinstated parenting time is in the best interests of the child. Nothing in this subsection limits the court's authority under subsection (1)(a) of this section.

(13) In a proceeding under this section to reconsider provisions in a judgment relating to custody, temporary placement of the child by the custodial parent pursuant to ORS 109.056 (3) with the noncustodial parent as a result of military deployment of the custodial parent is not, by itself, a change of circumstances. Any fact relating to the child and the parties occurring subsequent to the last custody judgment, other than the custodial parent's temporary placement of the child pursuant

to ORS 109.056 (3) with the noncustodial parent, may be considered by the court when making a change of circumstances determination.

(14) Within 30 days after service of notice under subsection (1) of this section, the party served shall file a written response with the court.

(15)(a) It is the policy of this state:

(A) To encourage the settlement of cases brought under this section; and

(B) For courts to enforce the terms of settlements described in paragraph (b) of this subsection to the fullest extent possible, except when to do so would violate the law or would clearly contravene public policy.

(b) In a proceeding under subsection (1) of this section, the court may enforce the terms set forth in a stipulated order or judgment signed by the parties, an order or judgment resulting from a settlement on the record or an order or judgment incorporating a settlement agreement:

(A) As contract terms using contract remedies;

(B) By imposing any remedy available to enforce an order or judgment, including but not limited to contempt; or

(C) By any combination of the provisions of subparagraphs (A) and (B) of this paragraph.

(c) A party may seek to enforce an agreement and obtain remedies described in paragraph (b) of this subsection by filing a motion, serving notice on the other party in the manner provided by ORCP 7 and, if a remedy under paragraph (b)(B) of this subsection is sought, complying with the statutory requirements for that remedy. All claims for relief arising out of the same acts or omissions must be joined in the same proceeding.

(d) Nothing in paragraph (b) or (c) of this subsection limits a party's ability, in a separate proceeding, to file a motion to modify an order or judgment under subsection (1) of this section or to seek enforcement of an ancillary agreement to the order or judgment.

SECTION 60. ORS 107.431 is amended to read:

107.431. (1) At any time after a judgment of annulment or dissolution of a marriage or a separation is granted, the court may set aside, alter or modify so much of the judgment relating to parenting time with a minor child as it deems just and proper or may terminate or modify that part of the order or judgment requiring payment of money for the support of the minor child with whom parenting time is being denied after:

(a) Motion to set aside, alter or modify is made by the parent having parenting time rights;

(b) Service of notice on the parent or other person having custody of the minor child is made in the manner provided by law for service of a summons;

(c) Service of notice on the Administrator of the Division of Child Support of the Department of Justice when the child support rights of one of the parties or of a child of both of the parties have been assigned to the state. As an alternative to the service of notice on the administrator, service may be made upon the branch office of the division which provides service to the county in which the motion was filed. Service may be accomplished by personal delivery or first class mail; and

(d) A showing that the parent or other person having custody of the child or a person acting in that parent or other person's behalf has interfered with or denied without good cause the exercise of the parent's parenting time rights.

(2) When a party moves to set aside, alter or modify the child support provisions of the judgment:

(a) The 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 child, including a proceeding brought under ORS 25.287, 25.501 to 25.556, 107.135, 109.100, 125.025[,] **or** 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 110.503, involving the child, other than the judgment the party is moving to set aside, alter or modify.

(b) The party shall include with the motion a certificate regarding any pending support proceeding and any existing support order other than the judgment the party is moving to set aside,

alter or modify. The party shall use a certificate that is in a form established by court rule and include information required by court rule and paragraph (a) of this subsection.

(3) The court may request the appearance of the administrator in any proceeding under this section in which it finds that the child support rights of one of the parties or of a child of both of the parties have been assigned to the state.

(4) This section does not apply when the child to whom a duty of support is owed is in another state that has enacted the Uniform Child Custody Jurisdiction Act or the Uniform Child Custody Jurisdiction and Enforcement Act and a court in that state would have subject matter and personal jurisdiction under that Act to determine custody and parenting time rights.

SECTION 61. ORS 108.110 is amended to read:

108.110. (1) Any married person may apply to the circuit court of the county in which the married person resides or in which the spouse may be found for an order upon the spouse to provide for support of the married person or for the support of minor children and children attending school, or both, and, if the married person initiating the action for support is a woman who is pregnant, her unborn child, or both, if her spouse is the natural father of such children, children attending school or unborn child or if her spouse is the adoptive parent of such children or children attending school. The married person initiating the action for support may apply for the order by filing in such county a petition setting forth the facts and circumstances upon which the married person relies for such order. If satisfied that a just cause exists, the court shall direct that the married person's spouse appear at a time set by the court to show cause why an order of support should not be entered in the matter. The provisions of ORS 107.108 apply to an order entered under this section for the support of a child attending school.

(2) As used in this section, "child attending school" has the meaning given that term in ORS 107.108.

(3) The petitioner shall state in the petition, to the extent known:

(a) Whether there is pending in this state or any other jurisdiction any type of support proceeding involving children of the marriage, including a proceeding brought under ORS 25.501 to 25.556, 107.085, 109.100, 125.025[,] **or** 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 110.503, involving children of the marriage.

(4) The petitioner shall include with the petition a certificate regarding any pending support proceeding and any existing support order. The petitioner shall use a certificate that is in a form established by court rule and include information required by court rule and subsection (3) of this section.

(5) The provisions of this section apply equally regardless of which spouse is making application for a support order.

(6) In any proceeding under this section, the obligee, as that person is defined in ORS 110.503, is a party to the proceeding.

SECTION 62. ORS 109.015 is amended to read:

109.015. If public assistance, as defined in ORS 25.501, is provided for any dependent child, the administrator, as defined in ORS 25.010, may initiate proceedings under ORS chapter 18, 107, 108, 109, 110 or 125 or ORS 25.010 to 25.243, 25.378, 25.402, 25.501 to 25.556[,] **or** 419B.400 [*or 419C.590*] to obtain support for the child from one or both parents or from any other person legally responsible for the support of the child, including a guardian or conservator. In any proceeding under any statute cited in this section, the obligee is a party.

SECTION 63. ORS 109.100 is amended to read:

109.100. (1) Any minor child or the administrator may, in accordance with ORCP 27 A, apply to the circuit court in the county in which the child resides, or in which the natural or adoptive father or mother of the child may be found, for an order upon the child's father or mother, or both, to provide for the child's support. The child or the administrator may apply for the order by filing in the county a petition setting forth the facts and circumstances relied upon for the order. If satisfied

that a just cause exists, the court shall direct that the father or mother appear at a time set by the court to show cause why an order of support should not be entered in the matter.

(2) The petitioner shall state in the petition, to the extent known:

(a) Whether there is pending in this state or any other jurisdiction any type of support proceeding involving the minor child, including a proceeding brought under ORS 25.287, 25.501 to 25.556, 107.085, 107.135, 107.431, 108.110, 109.103, 109.165, 125.025[,] **or** 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 110.503, involving the minor child.

(3) The petitioner shall include with the petition a certificate regarding any pending support proceeding and any existing support order. The petitioner shall use a certificate that is in a form established by court rule and include information required by court rule and subsection (2) of this section.

(4) The judgment of a court under subsection (1) of this section is final as to any installment or payment of money that has accrued up to the time either party makes a motion to set aside, alter or modify the judgment, and the court may not set aside, alter or modify the judgment, or any portion thereof, that provides for any payment of money that has accrued prior to the filing of the motion.

(5) The provisions of ORS 108.120 apply to proceedings under subsection (1) of this section.

(6) In any proceeding under this section, both the child's physical and legal custodians are parties to the action.

SECTION 64. ORS 109.103 is amended to read:

109.103. (1) If a child is born to an unmarried person and parentage has been established under ORS 109.065, or if a child is born to a married person by a person other than the birth mother's spouse and parentage between the person and the child has been established under ORS 109.065, either parent may initiate a civil proceeding to determine the custody or support of, or parenting time with, the child. The proceeding shall be brought in the circuit court of the county in which the child resides or is found or in the circuit court of the county in which either parent resides. The parents have the same rights and responsibilities regarding the custody and support of, and parenting time with, their child that married or divorced parents would have, and the provisions of ORS 107.094 to 107.449 that relate to custody, support and parenting time, the provisions of ORS 107.755 to 107.795 that relate to mediation procedures, and the provisions of ORS 107.810, 107.820 and 107.830 that relate to life insurance, apply to the proceeding.

(2) A parent may initiate the proceeding by filing with the court a petition setting forth the facts and circumstances upon which the parent relies. The parent shall state in the petition, 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 one brought under ORS 25.501 to 25.556, 109.100, 109.165, 125.025[,] **or** 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 110.503, involving the child.

(3) The parent shall include with the petition a certificate regarding any pending support proceeding and any existing support order. The parent shall use a certificate that is in a form established by court rule and include information required by court rule and subsection (2) of this section.

(4) When a parent initiates a proceeding under this section and the child support rights of one of the parents or of the child have been assigned to the state, the parent initiating the proceeding shall serve, by mail or personal delivery, a copy of the petition on the Administrator of the Division of Child Support or on the branch office providing support services to the county in which the suit is filed.

(5)(a) After a petition is filed under this section and upon service of summons and petition upon the respondent as provided in ORCP 7, a restraining order is issued and in effect against the

petitioner and the respondent until a final judgment is issued, until the petition is dismissed or until further order of the court, restraining the petitioner and the respondent from:

(A) Canceling, modifying, terminating or allowing to lapse for nonpayment of premiums any policy of health insurance that one party maintains to provide coverage for the other party or a minor child of the parties, or any life insurance policy that names either of the parties or a minor child of the parties as a beneficiary; and

(B) Changing beneficiaries or covered parties under any policy of health insurance that one party maintains to provide coverage for a minor child of the parties, or any life insurance policy.

(b) Either party restrained under this subsection may apply to the court for further temporary orders, including modification or revocation of the restraining order issued under this subsection.

(c) The restraining order issued under this subsection shall include a notice that either party may request a hearing on the restraining order by filing a request for hearing with the court.

(d) A copy of the restraining order issued under this subsection must be attached to the summons.

(e) A party who violates a term of a restraining order issued under this subsection is subject to imposition of remedial sanctions under ORS 33.055 based on the violation, but is not subject to:

(A) Criminal prosecution based on the violation; or

(B) Imposition of punitive sanctions under ORS 33.065 based on the violation.

SECTION 65. ORS 109.165 is amended to read:

109.165. (1) Upon motion of either party, the court may set aside, alter or modify any portion of the judgment that provides for the support of the minor child or child attending school, as defined in ORS 107.108. As to any installment or payment of money that has accrued up to the time the nonmoving party, other than the state, is served with a motion to set aside, alter or modify the judgment, the judgment is final and the court may not change it. However, the court 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. A child attending school is a party for purposes of this section.

(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 child, including a proceeding brought under ORS 25.287, 25.501 to 25.556, 109.100, 125.025[,] **or** 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 110.503, involving the child, other than the judgment the party is moving to set aside, alter or 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 judgment the party is moving to set aside, alter or modify. The party shall use a certificate that is in a form established by court rule and include information required by court rule and subsection (2) of this section.

(4)(a) It is the policy of this state:

(A) To encourage the settlement of cases brought under this section; and

(B) For courts to enforce the terms of settlements described in paragraph (b) of this subsection to the fullest extent possible, except when to do so would violate the law or would clearly contravene public policy.

(b) In a proceeding under subsection (1) of this section, the court may enforce the terms set forth in a stipulated order or judgment signed by the parties, an order or judgment resulting from a settlement on the record or an order or judgment incorporating a settlement agreement:

(A) As contract terms using contract remedies;

(B) By imposing any remedy available to enforce an order or judgment, including but not limited to contempt; or

(C) By any combination of the provisions of subparagraphs (A) and (B) of this paragraph.

(c) A party may seek to enforce an agreement and obtain remedies described in paragraph (b) of this subsection by filing a motion, serving notice on the other party in the manner provided by ORCP 7 and, if a remedy under paragraph (b)(B) of this subsection is sought, complying with the statutory requirements for that remedy. All claims for relief arising out of the same acts or omissions must be joined in the same proceeding.

(d) Nothing in paragraph (b) or (c) of this subsection limits a party's ability, in a separate proceeding, to file a motion to modify an order or judgment under subsection (1) of this section or to seek enforcement of an ancillary agreement to the order or judgment.

SECTION 66. ORS 125.025 is amended to read:

125.025. (1) Subject to ORS 125.800 to 125.852 for adults as defined in ORS 125.802, a court having jurisdiction over a protective proceeding shall exercise continuing authority over the proceeding. Subject to the provisions of ORS 125.800 to 125.852 and this chapter, the court may act upon the petition or motion of any person or upon its own authority at any time and in any manner it deems appropriate to determine the condition and welfare of the respondent or protected person and to inquire into the proper performance of the duties of a fiduciary appointed under the provisions of this chapter.

(2) A court having jurisdiction over a protective proceeding in which the respondent or protected person is a minor shall consider and apply all relevant provisions of the Indian Child Welfare Act codified at 25 U.S.C. sections 1901 et seq.

(3) A court having jurisdiction over a protective proceeding may:

(a) Compel the attendance of any person, including respondents, protected persons, fiduciaries and any other person who may have knowledge about the person or estate of a respondent or protected person. The court may require those persons to respond to inquiries and produce documents that are subject to discovery under ORCP 36.

(b) Appoint counsel for a respondent or protected person.

(c) Appoint investigators, visitors and experts to aid the court in the court's investigation.

(d) Exercise jurisdiction over any transaction entered into by a fiduciary to determine if a conflict of interest existed and enter an appropriate judgment with respect to the transaction.

(e) Surcharge a surety for any loss caused by failure of a fiduciary to perform a fiduciary duty or any other duty imposed by this chapter, including a surcharge for attorney fees incurred by a respondent or protected person by reason of the failure.

(f) Require immediate delivery of a protected person or property of the protected person, including records, accounts and documents relating to that property, to the court or to a place it designates.

(g) Require the fiduciary to produce any and all records that might provide information about the treatment or condition of the protected person or property of the protected person.

(h) Remove a fiduciary whenever that removal is in the best interests of the protected person.

(i) Appoint a successor fiduciary when a fiduciary has died, resigned or been removed.

(j) Require a respondent or protected person to submit to a physical or mental examination pursuant to ORCP 44.

(k) Make provisions for parenting time or visitation or order support for any minor who is a respondent or protected person in a protective proceeding.

(L) Impose any conditions and limitations upon the fiduciary that the court considers appropriate, including limitations on the duration of the appointment. Any conditions or limitations imposed on the fiduciary must be reflected in the letters of appointment.

(m) Appoint protected person special advocates pursuant to ORS 125.120.

(4) When a person files a petition or motion for a support order under subsection (3)(k) of this section:

(a) The person shall state in the petition or motion, to the extent known:

(A) Whether there is pending in this state or any other jurisdiction any type of support proceeding involving the minor, including a proceeding brought under ORS 25.287, 25.501 to 25.556,

107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165[,] **or** 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 110.503, involving the minor.

(b) The person shall include with the petition or motion a certificate regarding any pending support proceeding and any existing support order. The person shall use a certificate that is in a form established by court rule and include information required by court rule and paragraph (a) of this subsection.

(5) When the court acts upon its own authority to order support under subsection (3)(k) of this section, at least 21 days before the hearing the court shall notify the Administrator of the Division of Child Support of the Department of Justice, or the branch office providing support services to the county where the hearing will be held, of the hearing. Before the hearing the administrator shall inform the court, to the extent known:

(a) Whether there is pending in this state or any other jurisdiction any type of support proceeding involving the minor, including a proceeding brought under ORS 25.287, 25.501 to 25.556, 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165[,] **or** 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 110.503, involving the minor.

(6) The Judicial Department and the Department of Justice may enter into an agreement regarding how the courts give the notice required under subsection (5) of this section to the Department of Justice and how the Department of Justice gives the information described in subsection (5)(a) and (b) to the courts.

(7) If the court finds that a conservator should be appointed, the court may exercise all the powers over the estate and affairs of the protected person that the protected person could exercise if present and not under disability, except the power to make a will. The court shall exercise those powers for the benefit of the protected person and members of the household of the protected person.

(8) The powers of the court in protective proceedings may be exercised by the court directly or through a fiduciary.

SECTION 67. ORS 151.225 is amended to read:

151.225. (1) The Public Defense Services Account is established in the State Treasury, separate and distinct from the General Fund. The Public Defense Services Account is continuously appropriated to the Public Defense Services Commission to:

(a) Reimburse the actual costs and expenses, including personnel expenses, incurred in administration and support of the public defense system;

(b) Reimburse the State Court Administrator under ORS 151.216 (1)(i); and

(c) Pay other expenses in connection with the legal representation of persons for which the commission is responsible by law, including expenses incurred in the administration of the public defense system.

(2) All moneys received by the Judicial Department under ORS 135.050 (8), 151.487 (1), 419A.211[,] **or** 419B.198 (1)[, *419C.203 (1) or 419C.535 (2)*] shall be deposited in the Public Defense Services Account.

(3) All gifts, grants or contributions accepted by the commission under ORS 151.216 shall be deposited in a separate subaccount created in the Public Defense Services Account to be used by the commission for the purpose for which the gift, grant or contribution was given or granted.

SECTION 68. ORS 153.657 is amended to read:

153.657. (1) If a court enters a judgment of conviction for violation of [*ORS 339.020 or*] the requirements of ORS 339.035, amounts collected under the judgment are payable as follows:

(a) One-half of the amount is payable to the school district or the education service district that employs the person who issued the citation under ORS 339.095; and

(b) One-half of the amount is payable as provided in subsection (2) of this section.

(2)(a) If a judgment of conviction that is subject to subsection (1) of this section is entered in circuit court, the amount specified in subsection (1)(b) of this section shall be paid to the state.

(b) If a judgment of conviction that is subject to subsection (1) of this section is entered in justice court, the amount specified in subsection (1)(b) of this section shall be paid to the county that established the court.

(c) If a judgment of conviction that is subject to subsection (1) of this section is entered in municipal court, the amount specified in subsection (1)(b) of this section shall be paid to the city that established the court.

SECTION 69. ORS 339.065 is amended to read:

339.065. (1) In estimating regular attendance for purposes of the compulsory attendance provisions of ORS 339.005 to 339.030, 339.040 to 339.125, 339.137[,] **and** 339.420 [*and 339.990*], the principal or teacher shall consider all unexcused absences. Eight unexcused one-half day absences in any four-week period during which the school is in session shall be considered irregular attendance.

(2)(a) An absence may be excused by a principal or teacher if the absence is caused by:

(A) The pupil's sickness, including the mental or behavioral health of the pupil;

(B) The sickness of some member of the pupil's family; or

(C) An emergency.

(b) In addition to the reasons identified in paragraph (a) of this subsection, a principal or teacher:

(A) Shall excuse not more than seven days of absences during the school year if the pupil is a dependent of a member of the Armed Forces of the United States who is on active duty or who is called into active duty. For the purpose of this subparagraph, "Armed Forces of the United States" includes:

(i) The Army, Navy, Air Force, Marine Corps and Coast Guard of the United States;

(ii) Reserve components of the Army, Navy, Air Force, Marine Corps and Coast Guard of the United States; and

(iii) The National Guard of the United States and the Oregon National Guard.

(B) May excuse absences for other reasons when satisfactory arrangements are made in advance of the absence.

(3)(a) Any pupil may be excused from attendance by the district school board for a period not to exceed five days in a term of three months or not to exceed 10 days in any term of at least six months. Any such excuse shall be in writing directed to the principal of the school that the pupil attends.

(b) When calculating the number of excused absences under this subsection, any absences excused under subsection (2)(b)(A) of this section shall not be counted.

SECTION 70. ORS 418.034 is amended to read:

418.034. (1) Notwithstanding ORS 169.140 or any other provision of law, within the availability of funds therefor, the Department of Human Services shall be responsible for the costs and expenses associated with the provision of medical care for any child in the care and custody of the Department of Human Services who is held in a juvenile detention facility or in a local correctional facility or lockup as defined in ORS 169.005.

(2) Nothing in subsection (1) of this section prevents the Department of Human Services from obtaining reimbursement for such costs and expenses as provided in ORS 419B.400, 419B.402, 419B.404[,] **or** 419B.406[, *419C.590, 419C.592, 419C.595 or 419C.597*].

(3) If funds are not available to pay for medical costs as required by subsection (1) of this section, the Department of Human Services shall apply to the Emergency Board or to the Legislative Assembly for additional necessary funds.

(4) As used in this section, "medical care" means emergency medical care or medical care for a medical condition that existed prior to the child's being held in a juvenile detention facility or in a local correctional facility or lockup.

SECTION 71. ORS 418.475 is amended to read:

418.475. (1) Within the limit of moneys appropriated therefor, the Department of Human Services may establish or certify independent residence facilities for unmarried persons who:

- (a) Are at least 16 years of age and not older than 20 years of age;
- (b) Have been placed in at least one substitute care resource;
- (c) Have been determined by the department to possess the skills and level of responsibility required for the transition to adulthood;
- (d) Have received permission from the appropriate juvenile court, if they are wards of the court; and
- (e) Have been determined by the department to be suitable for an independent living program.

(2) Independent residence facilities shall provide independent housing arrangements with counseling services and minimal supervision available from at least one counselor. All independent residence facilities having six or more residents shall be licensed by the department under ORS 443.400 to 443.455.

(3) Each resident shall be required to maintain a department approved independent living plan consisting of education, employment or volunteer activities, or a combination thereof, and shall be required to pay a portion or all of the resident's housing expenses and other support costs. The department may approve an exception to the requirements of this subsection for reasons of temporary loss of employment or of other financial support.

(4) The department may make payment grants directly to persons enrolled in an independent living program who, at a minimum, meet the requirements described in subsection (1)(a) to (c) of this section for food, shelter, clothing, transportation and incidental expenses. The payment grants shall be subject to an agreement between the person and the department that establishes a budget of expenses.

(5) The department may establish cooperative financial management agreements with a person enrolled in an independent living program and for that purpose may enter into joint bank accounts requiring two signatures for withdrawals. The management agreements or joint accounts may not subject the department or any counselor involved to any liability for debts or other responsibilities of the minor.

(6) The department shall make periodic reports to the juvenile court as required by the court regarding any ward of the court who is enrolled in an independent living program.

(7) The enrollment of a person in an independent living program in accordance with the provisions of subsection (1) of this section or making payment grants under subsection (4) of this section does not remove or limit in any way the obligation of the parent of the person to pay support as ordered by a court under the provisions of ORS 419B.400 [or 419C.590].

SECTION 72. ORS 419B.400 is amended to read:

419B.400. (1) The court may, after a hearing on the matter, require the parents or other person legally obligated to support a child alleged to be within the jurisdiction of the court under ORS 419B.100 or a ward to pay toward the child or ward's support such amounts at such intervals as the court may direct, even though the child or ward is over 18 years of age as long as the child or ward is a child attending school, as defined in ORS 107.108.

(2) At least 21 days before the hearing, the court shall notify the Administrator of the Division of Child Support of the Department of Justice, or the branch office providing support services to the county where the hearing will be held, of the hearing. Before the hearing the administrator shall inform the court, to the extent known:

(a) Whether there is pending in this state or any other jurisdiction any type of support proceeding involving the child or ward, including a proceeding brought under ORS 25.287, 25.501 to 25.556, 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165[,] **or** 125.025 [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 110.503, involving the child or ward.

(3) The Judicial Department and the Department of Justice may enter into an agreement regarding how the courts give the notice required under subsection (2) of this section to the Depart-

ment of Justice and how the Department of Justice gives the information described in subsection (2)(a) and (b) to the courts.

(4) The court, in determining the amount to be paid, shall use the scale and formula provided for in ORS 25.275 and 25.280. Unless otherwise ordered, the amounts so required to be paid shall be paid to the Department of Justice or the county clerk, whichever is appropriate, for transmission to the person, institution or agency having legal custody of the child or ward.

SECTION 73. ORS 419B.552 is amended to read:

419B.552. (1) A juvenile court, upon the written application of a minor who is domiciled within the jurisdiction of such court, is authorized to enter a judgment of emancipation in the manner provided in ORS 419B.558. A judgment of emancipation shall serve only to:

(a) Recognize the minor as an adult for the purposes of contracting and conveying, establishing a residence, suing and being sued, and making a will, and recognize the minor as an adult for purposes of the criminal laws of this state.

(b) Terminate as to the parent and child relationship the provisions of ORS 109.010 until the child reaches the age of majority.

(c) Terminate as to the parent and child relationship the provisions of ORS 108.045, 109.100, 419B.373, 419B.400, 419B.402, 419B.404, 419B.406, 419B.408[,] **and** 419C.550[, 419C.590, 419C.592, 419C.595, 419C.597 and 419C.600].

(2) A judgment of emancipation shall not affect any age qualification for purchasing alcoholic liquor, the requirements for obtaining a marriage license, nor the minor's status under ORS 109.510.

SECTION 74. ORS 419C.323 is amended to read:

419C.323. (1) If the youth is before the court, the court has jurisdiction to proceed with the case notwithstanding the failure to serve summons upon any person required to be served by [ORS 419C.300, 419C.303 and 419C.306, except that:] **ORS 419C.306.**

[*(1) No order for support as provided in ORS 419C.590, 419C.592, 419C.595 and 419C.597 may be entered against a person unless that person is served as provided in ORS 419C.309.*]

(2) **Notwithstanding subsection (1) of this section**, if it appears to the court that a parent or guardian required to be served by ORS [419C.300, 419C.303 and] 419C.306 was not served as provided in ORS 419C.309, 419C.312 and 419C.315, or was served on such short notice that the parent or guardian did not have a reasonable opportunity to appear at the time fixed, the court shall, upon petition by the parent or guardian, reopen the case for full consideration.

SECTION 75. ORS 420.065 is amended to read:

420.065. (1) Such agreements shall provide for compensation to be paid for the youth offender's work at the prevailing wages for such work in the community where the youth offender is employed or at a wage rate approved by the superintendent.

(2) All sums earned by a youth offender placed in a youth correction facility, other than amounts involuntarily withheld by the employer of the youth offender, shall be paid directly to the superintendent or to the youth offender if so directed by the superintendent. [*Except as otherwise provided in ORS 419C.203,*] All moneys received by the superintendent under this section shall be placed in a trust account to be used solely for the benefit of the youth offender.

SECTION 76. ORCP 78 C is amended to read:

C Application. Section B of this rule does not apply to an order or judgment for the payment of money, except orders and judgments for the payment of sums ordered pursuant to ORS 107.095 and 107.105 (1)(i), and money for support, maintenance, nurture, education, or attorney fees, in:

C(1) Actions for dissolution or annulment of marriage or separation from bed and board.

C(2) Proceedings upon support orders entered under ORS chapter 108, 109 or 110, or under ORS 416.400 to 416.465[,] **or** 419B.400 [*or 419C.590*].

SATISFACTION OF EXISTING JUDGMENTS

SECTION 77. (1) **Any judgment entered prior to the operative date specified in section 79 (1) of this 2021 Act for fines, fees, costs or other monetary obligations is null and void and**

considered paid in full and satisfied on the operative date specified in section 79 (1) of this 2021 Act if:

(a) There remains a balance due, including post-judgment interest, penalties or collection expenses, on the judgment as of the operative date specified in section 79 (1) of this 2021 Act; and

(b) Section 6 of this 2021 Act, the amendments to statutes and session law by sections 2 to 4, 7 to 36a and 38 to 76 of this 2021 Act and the repeal of ORS 419C.203, 419C.449, 419C.459, 419C.590, 419C.592, 419C.595, 419C.597 and 419C.600 by section 37 of this 2021 Act remove or repeal the underlying statutory authority for or would prohibit the assessment of the fee, cost or other monetary obligation included in the judgment if the judgment had been entered after the operative date specified in section 79 (1) of this 2021 Act.

(2) Nothing in this section creates a right of reimbursement to a youth, youth offender or young person or the parent or guardian of a youth, youth offender or young person, and a court may not reimburse a youth, youth offender or young person or the parent or guardian of a youth, youth offender or young person, for fines, fees, costs or other monetary obligations the youth, youth offender or young person or the parent or guardian of a youth, youth offender or young person paid on or before the operative date specified in section 79 (1) of this 2021 Act to satisfy a lawful order or judgment that was entered before the operative date specified in section 79 (1) of this 2021 Act.

(3) The court administrator, as defined in ORS 18.005, may not charge any fees associated with the satisfaction of a judgment under subsection (1) of this section.

(4) The Chief Justice of the Supreme Court may make any order or adopt any rules, and the State Court Administrator may establish any policies or procedures, necessary to carry out the provisions of this section.

MISCELLANEOUS

SECTION 78. Section 6 of this 2021 Act, the amendments to statutes and session law by sections 2 to 4, 7 to 36a and 38 to 76 of this 2021 Act and the repeal of ORS 419C.203, 419C.449, 419C.459, 419C.590, 419C.592, 419C.595, 419C.597 and 419C.600 by section 37 of this 2021 Act apply to fees or costs ordered or assessed on or after the effective date of this 2021 Act.

SECTION 79. (1) Sections 6 and 77 of this 2021 Act, the amendments to statutes and session law by sections 2 to 4, 7 to 36a and 38 to 76 of this 2021 Act and the repeal of ORS 419C.203, 419C.449, 419C.459, 419C.590, 419C.592, 419C.595, 419C.597 and 419C.600 by section 37 of this 2021 Act become operative on January 1, 2022.

(2) The Chief Justice of the Supreme Court or State Court Administrator may take any action before the operative date specified in subsection (1) of this section that is necessary for the Chief Justice or the State Court Administrator to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the Chief Justice or State Court Administrator by sections 6 and 77 of this 2021 Act, the amendments to statutes and session law by sections 2 to 4, 7 to 36a and 38 to 76 of this 2021 Act and the repeal of ORS 419C.203, 419C.449, 419C.459, 419C.590, 419C.592, 419C.595, 419C.597 and 419C.600 by section 37 of this 2021 Act.

SECTION 80. The unit captions used in this 2021 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2021 Act.

SECTION 81. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.

Passed by Senate June 25, 2021

Repassed by Senate June 26, 2021

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House June 26, 2021

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

.....
Shemia Fagan, Secretary of State

Enrolled
Senate Bill 822

Sponsored by COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110 IMPLEMENTATION

CHAPTER

AN ACT

Relating to child support; amending ORS 25.095.

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

SECTION 1. ORS 25.095 is amended to read:

25.095. (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 25.531 to the contrary, the terms of a child support judgment originating under ORS 25.529 are terminated by the 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 is providing services under ORS 25.080;

(c) The administrator or a court gives the later-issued child support judgment precedence over the earlier-issued child support judgment originating under ORS 25.529; and

(d) 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 25.531 (7), for purposes of reconciling any support payment records under the two child support judgments described in subsection (2) of this section:

(a) The terms of the child support judgment originating under ORS 25.529 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 **the amount** of any support payment arrearage or credit that has accrued under the earlier-issued child support judgment originating under ORS 25.529.

(4) Any arrearage that accrued under a judgment that is terminated as provided in subsection (2) of this section or that is explicitly terminated by any other later-issued court judgment is subsumed by the later-issued court judgment and is enforceable in the court case in which the later-issued court judgment was entered.

UCCJEA and UIFSA

Relevant Statutes for Child Support

Basis to enforce or establish support order under UIFSA. This provision does not address jurisdiction to modify—that's covered by ORS 110.632.

ORS 110.518 Bases for jurisdiction over nonresident; limitations.

- (1) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:
 - (a) The individual is personally served with notice within this state;
 - (b) The individual submits to the jurisdiction of this state by consent in a record, by entering a general appearance or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
 - (c) The individual resided with the child in this state;
 - (d) The individual resided in this state and provided prenatal expenses or support for the child;
 - (e) The child resides in this state as a result of the acts or directives of the individual;
 - (f) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse; or
 - (g) There is any other basis consistent with the Constitutions of the State of Oregon and the United States for the exercise of personal jurisdiction.
- (2) The bases of personal jurisdiction set forth in subsection (1) of this section or in any other law of this state may not be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state unless the requirements of ORS 110.632 are met or, in the case of a foreign support order, unless the requirements of ORS 110.639 are met.

Modification jurisdiction statute

ORS 110.632 Modification of child support order of another state.

- (1) If ORS 110.636 does not apply, upon petition a tribunal of this state may modify a child support order issued in another state that is registered in this state if, after notice and hearing, the tribunal finds that:
 - (a) The following requirements are met:
 - (A) Neither the child, nor the obligee who is an individual nor the obligor resides in the issuing state;
 - (B) A petitioner who is a nonresident of this state seeks modification; and
 - (C) The respondent is subject to the personal jurisdiction of the tribunal of this state; or
 - (b) This state is the residence of the child, or a party who is an individual is subject to the personal jurisdiction of the tribunal of this state, and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction.
- (2) Modification of a registered child support order is subject to the same requirements, procedures and defenses that apply to the modification of an order issued by a tribunal of this state, and the order may be enforced and satisfied in the same manner.
- (3) A tribunal of this state may not modify any aspect of a child support order that may not be modified under the law of the issuing state, including the duration of the obligation of support. If two or more tribunals have issued child support orders for the same obligor and same child, the order that controls and must be so recognized under ORS 110.533 establishes the aspects of the support order which are nonmodifiable.
- (4) In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state.
- (5) On the issuance of an order by a tribunal of this state modifying a child support order issued in another state, the tribunal of this state becomes the tribunal having continuing, exclusive jurisdiction.
- (6) Notwithstanding subsections (1) to (5) of this section and ORS 110.518 (2), a tribunal of this state retains jurisdiction to modify an order issued by a tribunal of this state if:
 - (a) One party resides in another state; and
 - (b) The other party resides outside the United States.

UCCJEA and UIFSA

Relevant Statutes for Child Support

UCCJEA jurisdiction statutes only confer jurisdiction for “child custody determinations.” Definition does not include support.

ORS 109.704 Definitions for ORS 109.701 to 109.834. As used in ORS 109.701 to 109.834:

- (3) “Child custody determination” means a judgment or other order of a court providing for the legal custody, physical custody, parenting time or visitation with respect to a child. “Child custody determination” includes a permanent, temporary, initial and modification order. “Child custody determination” does not include an order relating to child support or other monetary obligation of an individual.

ORS 109.741 Initial child custody jurisdiction.

- (1) Except as otherwise provided in ORS 109.751, a court of this state has jurisdiction to make an initial child custody determination only if:
- (a) This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state;
 - (b) A court of another state does not have jurisdiction under subsection (1)(a) of this section, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under ORS 109.761 or 109.764, and:
 - (A) The child and the child’s parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this state other than mere physical presence; and
 - (B) Substantial evidence is available in this state concerning the child’s care, protection, training and personal relationships;
 - (c) All courts having jurisdiction under subsection (1)(a) or (b) of this section have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under ORS 109.761 or 109.764; or
 - (d) No court of any other state would have jurisdiction under the criteria specified in subsection (1)(a), (b) or (c) of this section.
- (2) Subsection (1) of this section is the exclusive jurisdictional basis for making a child custody determination by a court of this state.
- (3) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination. [1999 c.649 §13]

Note: See note under 109.701.

ORS 109.744 Exclusive, continuing jurisdiction.

- (1) Except as otherwise provided in ORS 109.751, a court of this state that has made a child custody determination consistent with ORS 109.741 or 109.747 has exclusive, continuing jurisdiction over the determination until:
- (a) A court of this state determines that neither the child, nor the child and one parent, nor the child and a person acting as a parent have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child’s care, protection, training and personal relationships; or
 - (b) A court of this state or a court of another state determines that the child, the child’s parents and any person acting as a parent do not presently reside in this state.
- (2) A court of this state that has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if the court has jurisdiction to make an initial determination under ORS 109.741. [1999 c.649 §14]

Note: See note under 109.701.

ORS 109.747 Jurisdiction to modify determination. Except as otherwise provided in ORS 109.751, a court of this state may not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under ORS 109.741 (1)(a) or (b) and:

- (1) The court of the other state determines that it no longer has exclusive, continuing jurisdiction under ORS 109.744 or that a court of this state would be a more convenient forum under ORS 109.761; or
- (2) A court of this state or a court of the other state determines that the child, the child’s parents and any person acting as a parent do not presently reside in the other state.