

No. \_\_\_\_\_

In the

**Supreme Court of the United States**

Russell G. Conlon,

*Petitioner*

v.

State of Oklahoma; Department Of Human Services,

Child Support Services, and Tracy D. Conlon

*Respondents.*

**Appendix To Petition For Writ Of Certiorari**

## **Appendix A**



## ORIGINAL

NOT FOR OFFICIAL PUBLICATION

IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

## DIVISION II

IN RE THE MARRIAGE OF:  
TRACY D. CONLON,  
Petitioner/Appellee,  
OKLAHOMA DEPARTMENT OF  
HUMAN SERVICES, CHILD  
SUPPORT SERVICES,  
Intervenor/Appellee,  
vs.  
RUSSELL G. CONLON,  
Respondent/Appellant.

**FILED**  
**COURT OF CIVIL APPEALS**  
**STATE OF OKLAHOMA**

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Case No. 119,852

APPEAL FROM THE DISTRICT COURT OF  
OKLAHOMA COUNTY, OKLAHOMA

HONORABLE MARTHA OAKES, TRIAL JUDGE

**AFFIRMED**

Brooks T. Ray  
BROOKS T. RAY, PLLC  
Oklahoma City, Oklahoma

For Petitioner/Appellee

Gigi McCormick  
Elizabeth S. Wilson  
Andrew W. Washeck  
STATE OF OKLAHOMA  
DEPARTMENT OF HUMAN SERVICES

CHILD SUPPORT SERVICES  
Oklahoma City, Oklahoma

For Intervenor/Appellee

Russell G. Conlon  
Choctaw, Oklahoma

*Pro Se*

**OPINION BY DEBORAH B. BARNES, VICE-CHIEF JUDGE:**

Russell G. Conlon appeals from an order of the district court denying his motion to remove the Oklahoma Department of Human Services Child Support Services (DHS) as a necessary party. Based on our review, we affirm.

**BACKGROUND**

Mr. Conlon and Tracy D. Conlon were married in 2003. Three children were born of the marriage: in 2005, 2008, and 2011. The couple separated in 2015 and Ms. Conlon subsequently filed a petition for dissolution of marriage. In July 2017, the marriage was dissolved and a Decree of Divorce was issued.

Among other things, Mr. Conlon was ordered in the Decree to pay Ms. Conlon child support for the use and benefit of the children in the monthly sum of \$1,153.13, and he was ordered to be responsible for 68% of out-of-pocket medical expenses incurred for the children. Mr. Conlon was also found to be guilty of indirect contempt for willfully failing to pay court-ordered child support pursuant to a temporary order, and a judgment was entered in favor of Ms. Conlon in the amount of \$4,198.32 “as arrears . . . plus interest[.]” Judgment was also granted in

favor of DHS against Mr. Conlon in the amount of \$1,910.40 “as cash medical arrears accrued under [a temporary order] . . .”

In August 2017, DHS filed a Notice of Necessary Party in which it stated that, “pursuant to Title 43 O.S. Section 112(F) and Title 56 O.S. Section 237,”

- A. A petition or motion has been filed in the above-captioned cause in which child support may be ordered to be paid for the benefit of the minor children . . .
- B. [DHS] is providing public assistance, medical assistance, daycare assistance and/or child support services for the benefit of the minor children.
- C. [DHS] is a necessary party for just adjudication of issues of paternity, medical support, and/or child support owed by the non-custodial parent. Title 43 O.S. Section 112(F).
- D. The attorney for [DHS] represents the interests of the State of Oklahoma, and not the interests of any individual party. Title 56 O.S. Section 237.3.

DHS requested the following:

1. An order confirming that [DHS] is a necessary party to this action;
2. An order for ongoing child support of the minor children in this action, including child care and medical support costs;
3. An order for one or both parties to carry health insurance on the minor child(ren) when available at a reasonable cost, or 5% of their gross monthly income;
4. An order permitting collection by income assignment of all child support payments;
5. An order using [DHS] daycare subsidy guidelines for the calculation of child support in the event the children receive [DHS] daycare subsidy.

The next filing contained in the appellate record is Mr. Conlon’s “Motion to Terminate [DHS] as Necessary Party,” filed in April 2021. Mr. Conlon asserted in

this motion, among other things, that he had “identified incriminated legal professionals” employed by DHS who were involved in “Medicaid fraud,” “racketeering” crimes, and “federal mail and wire fraud,” and that “investigations [had been] initiated by [his] complaint” into these DHS employees. Mr. Conlon stated that in August 2020 he had “filed a criminal referral with the intent to press charges, citing hard evidence entered on the record with this Court by [Mr. Conlon], to the Oklahoma State Attorney General Medicaid Fraud Unit of said actions of incriminated legal professionals associated with this case.” He stated that because of this referral, it is “completely improper . . . for [DHS] to be a necessary party to this case any longer.”

A hearing was held in June 2021. At the opening of the hearing, the district court stated that it had

advised the parties that this Court has no jurisdiction over any request of a citizen’s arrest or any type of indictment. That would have to be presented to the criminal judges up on [the] fifth floor, as well as if you’re requesting any type of indictment, that should go through the district attorney’s office. It is the district attorney’s office who review[s] and determine[s] whether or not charges should be filed . . .

Mr. Conlon acknowledged at the hearing that 43 O.S. § 112(F) grants DHS “statutory legal authority as a necessary party assuming,” in his view, “that [DHS] was not a corrupt organization.” He asserted, however, that “DHS became a corrupt organization . . . through the criminal actions of certain attorneys the State

employs,” that “criminal actions should void statutory authority as a necessary party of a case,” and “there is credible evidence that criminal acts have taken place. That is the argument that I’m making here . . .”

At the close of the hearing the court ruled from the bench that Mr. Conlon’s motion was denied. Following this hearing, the court entered a “Court Minute” in which it noted that Mr. Conlon’s motion was denied, and further noted that after this ruling: “[Mr. Conlon] moved for a Rule 15 Request”; that the court heard the request; and that it “denies request to withdraw as Trial Judge.”

These rulings were subsequently set forth in the district court’s order, filed in August 2021, from which Mr. Conlon appeals.

#### **STANDARD OF REVIEW**

“A divorce suit is one of equitable cognizance,” and “[i]n an action of equitable cognizance there is a presumption in favor of the trial court’s findings and they will not be set aside unless the trial court abused its discretion or the finding is against the clear weight of the evidence.” *Metcalf v. Metcalf*, 2020 OK 20, ¶ 9, 465 P.3d 1187 (footnote omitted). “Questions of law in a dissolution of marriage proceeding are reviewed *de novo*; this involves a plenary, independent and non-deferential examination of a trial court’s legal rulings.” *In re Marriage of Starcevich*, 2014 OK CIV APP 100, ¶ 7, 352 P.3d 1250 (citing *Jackson v. Jackson*, 2002 OK 25, ¶ 2, 45 P.3d 418). Moreover,

The admission and exclusion of evidence is within the sound discretion of the trial court. *Jordan v. General Motors Corp.*, 1979 OK 10, 590 P.2d 193. We will not reverse evidentiary decisions of the trial court absent an abuse of discretion which results in prejudice to the proponent. *Mills v. Grotheer*, 1998 OK 33, 957 P.2d 540.

*In re Marriage of Slate & Chadwick*, 2010 OK CIV APP 38, ¶ 17, 232 P.3d 916.<sup>1</sup>

## ANALYSIS

### *I. Mr. Conlon's First Proposition*

Mr. Conlon first argues in his appellate brief that, during the June 2021 hearing, “the trial court repeatedly sustained procedurally illegal objections from legal counsel for the State,” and that this constituted a “campaign to snuff out and preclude” Mr. Conlon’s “explosive prepared written argument[.]” However, Mr. Conlon was allowed to present his argument that, as quoted at greater length above, he believed DHS had become “a corrupt organization . . . through the criminal actions of certain attorneys the State employs,” and that these “criminal actions should void statutory authority as a necessary party of a case[.]” The court merely sustained objections, raised on the ground of relevancy, to Mr. Conlon’s attempts to present exhibits and lengthier allegations pertaining to this same argument. The court allowed Mr. Conlon to make an “offer of proof for the record.”

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<sup>1</sup> As stated above, the district court denied Mr. Conlon’s motion for a Rule 15 hearing and request that the district court judge withdraw from the case. However, Mr. Conlon does not contest this ruling in his appellate brief or raise it as an issue in his Petition-in>Error.

Not only were the objections not “procedurally illegal,”<sup>2</sup> but the court’s determinations with regard to relevancy were justified. Title 43 O.S. 2021 § 112(F) provides as follows:

In any case in which provision is made for the custody or support of a minor child or enforcement of such order and before hearing the matter or signing any orders, the court shall inquire whether public assistance money or medical support has been provided by [DHS] for the benefit of each child. If public assistance money, medical support, or child support services under the state child support plan as provided in Section 237 of Title 56 of the Oklahoma Statutes have been provided for the benefit of the child, [DHS] shall be a necessary party for the adjudication of the debt due to the State of Oklahoma, as defined in Section 238 of Title 56 of the Oklahoma Statutes,<sup>3</sup> and for

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<sup>2</sup> Mr. Conlon’s apparent argument that objections were not allowed is also well answered by DHS in its Answer Brief, in which it states that “nothing in [Mr. Conlon’s] brief, the Oklahoma Evidence Code, or any case law supports this claim,” the “general rule is that a party who may be prejudiced by the improper admission of evidence should object as soon as it becomes apparent the evidence would be relied upon by the opposing party,” and “litigants must object to incompetent evidence any time an opposing party presents it and . . . there is no time that the court cannot allow objections.” Answer Br. at 8-9.

<sup>3</sup> Title 56 O.S. 2021 § 238 provides:

Any payment of public assistance money by [DHS] to or for the benefit of any dependent child or children or a child in the custody of [DHS] creates a debt due and owing to the State of Oklahoma by the natural or adoptive parent or parents who are responsible for support of such child or children in an amount equal to the amount of public assistance money so paid.

Provided, that any debt under this section shall not be incurred by nor at any time be collected from a parent or other person who is the recipient of public assistance monies for the benefit of minor dependent children for the period such person or persons are in such status.

Provided further, that where there has been a court order, the debt shall be limited to the amount provided for by said order. [DHS] shall have the right to petition the appropriate court for modification of a court order on the same grounds as a party to said cause. [DHS] shall be subrogated to the right of said child or

the adjudication of paternity, child support, and medical insurance coverage for the minor children in accordance with federal regulations. When an action is filed, the petitioner shall give [DHS] notice of the action according to Section 2004 of Title 12 of the Oklahoma Statutes. [DHS] shall not be required to intervene in the action to have standing to appear and participate in the action. When [DHS] is a necessary party to the action, any orders concerning paternity, child support, medical support, or the debt due to the State of Oklahoma shall be approved and signed by [DHS].

We agree with the district court that Mr. Conlon's allegations that DHS has become "a corrupt organization," or that individual DHS employees have violated criminal statutes, is irrelevant to the specific issue under review at the time of the hearing: "whether public assistance money or medical support has been provided by [DHS] for the benefit of" the minor children. 43 O.S. § 112(F). As further set forth in § 112(F), "[i]f public assistance money, medical support, or child support services under the state child support plan as provided in Section 237 of Title 56 of the Oklahoma Statutes have been provided for the benefit of the child, [DHS] shall be a necessary party . . . ." Because Mr. Conlon's argument had no bearing on the question of whether public assistance money, medical support, or child support services had been provided to the minor children, we conclude that no procedural error occurred.

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children to prosecute or maintain any support action or execute any administrative remedy existing under the laws of the State of Oklahoma to obtain reimbursement of money thus expended.

Mr. Conlon also argues that his due process right was violated by the court's rulings.<sup>4</sup> In determining whether an individual has been denied procedural due process we engage in a two-step inquiry, asking whether the individual possessed a protected interest to which due process protection applies, and if so, whether the individual was afforded an appropriate level of process. *In re A.M.*, 2000 OK 82, ¶ 7, 13 P.3d 484. *See also id.* ¶ 7 n.6 (“Both the United States Constitution and the Oklahoma Constitution provide that no person shall be deprived of life, liberty or property without due process of law. U.S. Const. amend. XIV, § 1; Okla. Const., art. 2, § 7.”). The answer to the second inquiry must be determined on a case-by-case basis because the due process clause does not by itself mandate any particular form of procedure. *In re A.M.*, 2000 OK 82, ¶ 7. Rather, it calls for such procedural protection as the particular situation demands. *Id.* ¶ 9.

It is not clear what protected interest Mr. Conlon might be proposing relevant to a due process analysis.<sup>5</sup> As a private party in a divorce proceeding, Mr.

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<sup>4</sup> Mr. Conlon also states, without explanation, that his right to equal protection of the laws was violated. We address the equal protection clause further below in response to Mr. Conlon actually making an argument under the equal protection clause in a later proposition.

<sup>5</sup> Indeed, Mr. Conlon, at times, appears to make the argument that he was afforded too much process. He complains that the trial court conducted a trial instead of a hearing, Reply at 5, and states at one point that the trial court committed an “unconscionable abuse of [Mr. Conlon’s] constitutional rights” by “conduct[ing] . . . a trial on [his] motion” instead of holding a hearing, Br.-in-chief at 6. Of course, Mr. Conlon’s argument is that he should have been allowed to introduce argument and evidence seamlessly and without any objection (which Mr. Conlon describes as “procedurally illegal objections,” Br.-in-chief at 7). For the reasons set forth in this section of our Analysis, we conclude this argument lacks merit.

Conlon does not possess a protected interest in undertaking a criminal investigation or prosecution in that proceeding.<sup>6</sup> Thus, due process does not apply to protect Mr. Conlon's attempts to demonstrate the violation of criminal statutes at the hearing on his "Motion to Terminate [DHS] as Necessary Party." Moreover, even if we were to assume that at least some of the conduct about which Mr. Conlon complains might directly bear on the post-divorce proceeding, because the conduct nevertheless has no relevance to the specific issue described above – of whether public assistance money, medical support, or child support services had been provided – Mr. Conlon was afforded an appropriate level of process at the hearing.

We, therefore, reject any constitutional argument raised as part of this first proposition.

## *II. Mr. Conlon's Second Proposition*

Mr. Conlon asserts the district court "unlawfully abdicated its duty to execute citizen's arrest initiated by [him]." Mr. Conlon points out that, as quoted above, the district court stated at the hearing that it had

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<sup>6</sup> While the district court, in all its divisions, "constitutes an omnicompetent, single-level, first-instance tribunal with unlimited original jurisdiction of all justiciable matters," "the court's day-to-day exercise of authority stands carved into several separate divisional compartments." *Matter of Fourteen Exotic Parrot-like Birds*, 2022 OK CIV APP 17, ¶ 27, 512 P.3d 392 (internal quotation marks omitted) (citation omitted). More importantly, "[a] criminal action is prosecuted in the name of the State of Oklahoma as a party, against the person charged with the offense." 22 O.S. 2021 § 11. Mr. Conlon's attempt to make criminal allegations against DHS, or against certain DHS employees, in this divorce proceeding is therefore not a protected interest to which due process protection applies.

advised the parties that this Court has no jurisdiction over any request of a citizen's arrest or any type of indictment. That would have to be presented to the criminal judges up on [the] fifth floor, as well as if you're requesting any type of indictment, that should go through the district attorney's office. It is the district attorney's office who review[s] and determine[s] whether or not charges should be filed . . .

Mr. Conlon asserts these statements are false because “[s]pecial judges issue summons, convene arraignments and have criminal trials all the time . . .” He states he “has every right to initiate citizen's arrest per 22 O.S. § 202(2), (3) and 22 O.S. § 205.” He states he “filed notice with the trial court, noticed and designated the trial court to execute citizen's arrest upon identified counsel for The State and [Ms. Conlon],” and that the district court erred in failing to do so.

The provisions cited by Mr. Conlon provide authority, under certain circumstances, for a private person to arrest another, but this did not occur here. The provisions do not provide authority for a private person to require a judge to execute a citizen's arrest for that private person. *See* 22 O.S. 2021 § 202.<sup>7</sup> Moreover, Mr. Conlon did not contest the district court's statements, quoted above, or make an argument on the record in this regard at the hearing. *Jernigan v. Jernigan*, 2006 OK 22, ¶ 26, 138 P.3d 539 (“Nothing tendered here warrants a

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<sup>7</sup> Regardless, Mr. Conlon acknowledges in this proposition that, ultimately, “the district attorney of appropriate jurisdiction decides whether to file charges . . .” Br.-in-chief at 10.

deviation from the general rule that bars from review issues raised for the first time by appeal.”). For these reasons, we reject Mr. Conlon’s second proposition.

### *III. Mr. Conlon’s Third Proposition*

Mr. Conlon asserts “the trial court permitted participation of incriminated legal counsel representing The State and [Ms. Conlon], who had been identified by [Mr. Conlon] in initiated citizen’s arrest.” He asserts the court therefore erred in allowing these attorneys to participate at the hearing.

As set forth above, a citizen’s arrest did not occur. Moreover, Mr. Conlon raises this argument for the first time on appeal. *See State ex rel. Okla. State Bd. of Med. Licensure & Supervision v. Rivero*, 2021 OK 31, ¶ 33, 489 P.3d 36 (“[P]arties must preserve error in the lower tribunal with proper argument and authority, or the error is waived when raised for the first time on appeal.” (footnote omitted)). For these reasons, we reject Mr. Conlon’s third proposition.

### *IV. Mr. Conlon’s Fourth Proposition*

In his fourth proposition, Mr. Conlon challenges the district court’s determination, made in 2017, finding him in contempt for failure to pay child support. He asserts he was not paying child support because his mortgage business “was going under . . . .” However, the determination in question was set forth in the 2017 Decree, described above, the time to appeal that decision has passed, and Mr. Conlon’s challenge constitutes a collateral attack of a final order in an

incidental proceeding. *See Farley v. City of Claremore*, 2020 OK 30, ¶ 25 n.57, 465 P.3d 1213 (“A collateral attack is an attempt to avoid, defeat, evade or deny the force and effect of a final order or judgment in an incidental proceeding other than by appeal, writ of error, certiorari, or motion for new trial.” (citation omitted)).

Mr. Conlon also takes issue with the following language in the August 2021 order: that the court considered, among other things, “sworn testimony from witnesses[.]” Mr. Conlon asserts that no sworn witness testimony was taken and that what Mr. Conlon was “trying to present to the trial court [was] illegally hacked to shreds by counsel for [Ms. Conlon and DHS] and a prejudicially permissive trial court.” However, as already explained above, not only were the objections not “procedurally illegal,” but the court’s determinations with regard to relevancy were justified. Moreover, even if the court misstated in its order that it considered sworn testimony from witnesses, “[i]f the result is correct, [a] judgment is not vulnerable to reversal because the wrong reason was ascribed as a basis for the decision or because the trial court considered an immaterial issue or made an erroneous finding of fact.” *In re Estate of Bartlett*, 1984 OK 9, ¶ 4, 680 P.2d 369 (footnote omitted).

We reject Mr. Conlon’s fourth proposition.

#### *V. Mr. Conlon's Fifth Proposition*

In his fifth proposition, Mr. Conlon argues that the district court's order from which he appeals was "meant to bury clear and convincing evidence that racketeering and fraud crimes had been committed by counsel for the state and [Ms. Conlon]." As explained above, Mr. Conlon's allegations that DHS has become "a corrupt organization," or that individual DHS employees have violated criminal statutes, is irrelevant to the specific issue under review at the time of the hearing: whether DHS is a necessary party under 43 O.S. § 112(F). Because Mr. Conlon's argument had no bearing on this issue (which, as set forth above, hinges on whether public assistance money, medical support, or child support services had been provided), Mr. Conlon's argument lacks merit.<sup>8</sup>

#### *VI. Mr. Conlon's Sixth Proposition*

In his sixth proposition, Mr. Conlon attacks 43 O.S. § 112(F) on the following basis:

[I]f a child in a divorce or paternity case is provided public assistance that is funded by Oklahoma taxpayers, in this case by [Mr. Conlon] as the obligor parent paying annual taxes to the federal and state government, then charging an obligor parent for debt as defined by Oklahoma statute and Oklahoma Administrative law . . . , for public assistance benefits such as SoonerCare by means of charging insurance premiums to an obligor parent, or child support services

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<sup>8</sup> Mr. Conlon also appears to argue in this proposition against a certain civil docket transfer order. We agree with DHS that this issue was waived because it was not raised below. See *Rivero*, 2021 OK 31, ¶ 33.

provided by the Child Support Enforcement Division, is not valid debt as defined by 56 OS § 238 and OAC 340:25-1-1.1[.]

Of course, 43 O.S. § 112(F) merely provides that DHS

shall be a necessary party for the adjudication of the debt due to the State of Oklahoma, as defined in Section 238 of Title 56 of the Oklahoma Statutes, and for the adjudication of paternity, child support, and medical insurance coverage for the minor children in accordance with federal regulations.

The district court's denial, under § 112(F), of Mr. Conlon's motion to remove DHS as a necessary party did not constitute an adjudication of debt due to the State of Oklahoma, and the issue of whether a debt is a "valid debt as defined by 56 OS § 238 and OAC 340:25-1-1.1" is not before us.

Moreover, Mr. Conlon's argument overlooks that fact that, as stated by DHS, "In this case, [DHS]<sup>9</sup> was providing [Mr. Conlon's] children with public assistance money in the form of state health insurance and [Mr. Conlon] owed \$4198.32 in child support arrears." Indeed, Mr. Conlon appears, in this proposition, to be attacking determinations in the Decree. In the Decree, Ms. Conlon was ordered to "apply to [DHS] and make application for services to receive child support," and DHS was ordered to receive "a portion of the monies, income or periodic earnings due and owing [Mr. Conlon], currently self-employed, or from his employer, future employer, and/or any other person, department of

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<sup>9</sup> DHS refers in particular to the Child Support Services Division of DHS.

state or political subdivision thereof, . . . in an amount sufficient to meet [Mr. Conlon's] current base child support and any past due child support obligation, created by this Order." (Emphasis added.) The Decree provides that "[a]ll payments made pursuant to this Order by [Mr. Conlon] shall be made payable to [DHS] . . ." Not only has Mr. Conlon failed to allege any injury caused by DHS becoming a necessary party to this case, but also the amounts payable to DHS equal only those amounts sufficient to satisfy the provisions of the Decree.

Nevertheless, Mr. Conlon asserts that under 43 O.S. § 112(F), DHS acts, in this case, as an "unlawful taxing authority, usurping the Oklahoma Legislature's delegated constitutional authorities to tax, in violation of the Origination Clause as defined in Art. 1 § 7 Clause 1 of the Constitution of the United States." However, the Executive branch, not the Legislative branch, is charged with "faithfully execut[ing]" the laws.<sup>10</sup> Moreover, the Legislature, not DHS, enacted 43 O.S. §

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<sup>10</sup> "The Legislative authority of the State shall be vested in a Legislature," Okla. Const. art. 5, § 1, but "[t]he Governor shall cause the laws of the State to be faithfully executed," Okla. Const. art. 6, § 8.

The powers of the government of the State of Oklahoma shall be divided into three separate departments: The Legislative, Executive, and Judicial; and except as provided in this Constitution, the Legislative, Executive, and Judicial departments of government shall be separate and distinct, and neither shall exercise the powers properly belonging to either of the others.

Okla. Const. art. 4, § 1.

112(F).<sup>11</sup> Mr. Conlon has failed to demonstrate a violation of the Origination Clause.

Mr. Conlon also asserts the “Equal Protection Clause of the 14<sup>th</sup> Amendment” is violated by the

State charging as debt via cash medical support to obligor . . . because such action of [t]he State results in discrimination against a group of individuals, that being divorced or paternal obligor parents, because said groups of people must pay cash medical support to the State, whereas the rest of the taxpayers who are eligible for SoonerCare, are not obligated to pay anything back to [t]he State when the State pays an eligible taxpayer’s medical expenses.

Mr. Conlon’s argument is flawed because his payment to DHS is based on final determinations set forth in a divorce decree. Indeed, his argument constitutes an apparent attempt to collaterally attack the findings of the district court in the Decree. “A collateral attack is an attempt to avoid, defeat, evade or deny the force and effect of a final order or judgment in an incidental proceeding other than by appeal, writ of error, certiorari, or motion for new trial.” *Farley*, 2020 OK 30, ¶ 25 n.57 (citation omitted).

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<sup>11</sup> Mr. Conlon’s argument is inapposite. The Origination Clause provides: “All bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.” U.S. Const. Art. I, § 7. DHS has not “usurp[ed] the Oklahoma Legislature’s delegated constitutional authorities to tax, in violation of The Origination Clause[.]”

Regardless, Mr. Conlon has failed to assert he is part of an inherently suspect class,<sup>12</sup> and we must uphold 43 O.S. § 112(F) against his equal protection challenge so long as “the legislative means are rationally related to a legitimate governmental purpose.” *Gladstone v. Bartlesville Indep. Sch. Dist. No. 30 (I-30)*, 2003 OK 30, ¶ 9, 66 P.3d 442 (emphasis omitted) (footnote omitted). DHS points out that the child support statutes have a “broad remedial purpose . . . to provide support for children according to parents’ ability to pay.” *In re M.B.*, 1998 OK CIV APP 35, ¶ 7, 956 P.2d 171. DHS states that “Oklahoma law does treat non-custodial obligors differently by being obligated to pay child support,” but that “§ 112(F) does rationally relate to the purpose of child support, which is to support children based on a parent’s ability to pay.” We agree that § 112(F) is rationally related to the legitimate governmental purpose of providing support for children of divorced parents according to the parents’ ability to pay and according to final determinations in a divorce decree, and to obviate children becoming public charges because a non-custodial parent refuses to shoulder his/her responsibility to support his/her children financially. Therefore, we reject Mr. Conlon’s equal protection argument.

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<sup>12</sup> Nor do “divorced or paternal obligor parents,” the class described by Mr. Conlon, constitute a class subjected to such a history of purposeful unequal treatment as to require extraordinary protection. See Answer Br. of DHS at 25. DHS describes the proposed class as “[n]on-[c]ustodial parents who have to pay child support to support their own children[.]” We agree with DHS that this class is also not a suspect class deserving of strict scrutiny.

## *VII. Mr. Conlon's Seventh Proposition*

Mr. Conlon asserts that 43 O.S. § 118F is unconstitutional because it "usurps the United States Congress' enumerated authority to regulate commerce among the states."<sup>13</sup> More particularly, Mr. Conlon's argument is that § 118F "corners and

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<sup>13</sup> Mr. Conlon quotes the following from § 118F, with his emphasis supplied:

F. Cash medical support.

1. The responsible parent shall be ordered to pay cash medical support when:
  - a. there is no health care plan available for the child,
  - b. the only health care plan available for the child is a governmental medical assistance program or health plan, or
  - c. a party shows reasonable evidence of domestic violence or child abuse, such that an order for health care coverage is inappropriate and the disclosure of information could be harmful to a party, custodian, or child.
2. The cash medical support order shall not exceed the pro rata share of the actual monthly medical expenses paid for the child, or five percent (5%) of the gross monthly income of the obligor, whichever is less.
3. a. In determining the actual monthly medical costs for the child, the court shall determine:
  - (1) for children who are participating in a government medical assistance program or health plan, an amount consistent with rules promulgated by the Oklahoma Health Care Authority determining the rates established for the cost of providing medical care through a government medical assistance program or health plan, or
  - (2) for children who are not participating in a government medical assistance program or health plan, an amount consistent with rules promulgated by the Department of Human Services determining the average monthly cost of health care for uninsured children.
- b. The court may also consider:
  - (1) proof of past medical expenses incurred by either parent for the child,

eliminates free market private health insurance competitors that offer health insurance products" because "SoonerCare is the only health insurance product that can meet the reasonable cost requirements set forth in [§ 118F(F) & (G)]."

Mr. Conlon failed to raise this argument below, an argument which relies upon factual assertions and speculation regarding the effects of the statute. "[G]enerally, issues raised for the first time on appeal are not subject to review." *Nichols v. State ex rel. Dep't of Pub. Safety*, 2017 OK 20, ¶ 17, 392 P.3d 692 (footnote omitted). Because Mr. Conlon failed to raise this argument, we conclude it is not subject to review for the first time on appeal.

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(2) the current state of the health of the child, and

(3) any medical conditions of the child that would result in an increased monthly medical cost.

G. An order requiring the payment of cash medical support under subsection F of this section shall allow the obligor to terminate payment of the cash medical support if:

1. Accessible health care coverage for the child becomes available to the obligor at a reasonable cost; and

2. The obligor:

a. enrolls the child in the insurance plan, and

b. provides the obligee and, in a Title IV-D case, the Title IV-D agency, the information required under paragraph 2 of subsection C of this section.

In Title IV-D cases, termination and reinstatement of cash medical support shall be according to rules promulgated by the Department of Human Services.

### *VIII. Mr. Conlon's Eighth Proposition*

Mr. Conlon challenges 43 O.S. 2021 § 118I(B)(1), which provides: “A child support order shall not be modified retroactively regardless of whether support was ordered in a temporary order, a decree of divorce, an order establishing paternity, modification of an order of support, or other action to establish or to enforce support.” Mr. Conlon asserts that the “barring of retroaction of income imputation by [§ 118I(B)(1)],” even “[w]hen an obligor parent has any downturn [in] income during any given year,” creates an “oppressive financial burden,” creates “a tax that discriminates against . . . obligor parents in a divorce or paternity proceeding,” and “makes a court of law an unlawful taxing authority[.]”<sup>14</sup> He asserted below in his motion to terminate that the “imputed computation [of income] . . . can become outdated and obsolete” and disconnected from what the “obligor truly earned post decree[.]”

Mr. Conlon’s argument is far afield from the order from which he appeals and the issues presented at the hearing. Regardless, Mr. Conlon’s argument lacks merit because, pursuant to § 118I(A)(1), “[c]hild support orders may be modified upon a material change in circumstances,” including, among other things, “an increase or decrease in the income of the parents[.]” Section 118I(A)(3) provides:

An order of modification shall be effective on the first day of the month following the date the motion to modify was filed, unless the

---

<sup>14</sup> Mr. Conlon raised this argument in his Motion to Terminate DHS as Necessary Party.

parties agree to another date or the court makes a specific finding of fact that the material change of circumstance did not occur until a later date.

Thus, although § 118I prohibits retroactive modification, it does not prohibit a parent from immediately filing a motion to modify upon a change of circumstances, and it does not prohibit a court from modifying child support “on the first day of the month following the date the motion to modify was filed[.]” Indeed, Mr. Conlon acknowledged in his motion to terminate that the filing of a motion to modify constitutes a “remedy” to the issue he has articulated; however, he complains that a party would have “to frequently motion courts to modify anytime there is a change in income, thus unnecessarily overburdening the courts concurrently overburdening the litigants in a divorce or paternity case with additional legal cost and time.” This complaint is unpersuasive.

The Legislature, in formulating and enacting § 118I, was not concerned solely with the interests of the divorced parties, but was also taking into consideration the interests of minor children affected by a divorce. *See, e.g.,* § 118I(A)(1) (“The court shall apply the principles of equity in modifying any child support order due to changes in the circumstances of either party *as it relates to the best interests of the children.*” (emphasis added)); *In re M.B.*, 1998 OK CIV APP 35, ¶ 7 (Child support statutes have a “broad remedial purpose . . . to provide support for children according to parents’ ability to pay.” (emphasis added)). The

balance struck by the Legislature with regard to the requirements necessary for a parent to modify a child support order constitutes a legislative decision, and it is “firmly recognized that it is not the place of this Court, or any court, to concern itself with a statute’s propriety, desirability, wisdom, or its practicality as a working proposition.” *Fent v. Okla. Capitol Imp. Auth.*, 1999 OK 64, ¶ 4, 984 P.2d 200 (citations omitted). Although Mr. Conlon has attempted to put the constitutionality of the statute at issue, because, as stated above, he is not a member of a suspect class, we must uphold § 118I so long as “the legislative means are rationally related to a legitimate governmental purpose.” *Gladstone*, 2003 OK 30, ¶ 9. We conclude the requirement that a party must file a motion to modify in order to modify a child support order, and the prohibition of modifications of child support orders preceding the filing of such motions, is rationally related to the legitimate governmental purpose of providing support for children of divorced parents according to the parents’ ability to pay. Indeed, because of the “remedy” acknowledged by Mr. Conlon – the ability to file a motion to modify immediately upon a change of circumstances – the assertion that § 118I creates an unconstitutional “oppressive financial burden” and “tax” disconnected from a parent’s actual income, lacks merit.

## **CONCLUSION**

We affirm the order of the district court denying the motion to remove DHS as a necessary party.

## **AFFIRMED.**

WISEMAN, P.J., and HIXON, J., concur.

January 6, 2023

## **Appendix C**



\*1056220491\*

**ORIGINAL**

FILED  
SUPREME COURT  
STATE OF OKLAHOMA

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

SEP 25 2023

JOHN D. HADDEN  
CLERK

MONDAY, SEPTEMBER 25, 2023

**THE CLERK IS DIRECTED TO ENTER THE FOLLOWING ORDERS OF THE COURT:**

117,997      Trela Wishon v. James Hammond and Rita Hammond  
**Petition for certiorari is denied.**  
CONCUR:   Kauger, Winchester, Edmondson, Combs, Gurich, Darby,  
JJ.  
DISSENT:   Kane, C.J., Rowe, V.C.J. and Kuehn, J.

119,704      Kchao & Kchao Hospitality, LLC d/b/a Whispering Pines Inn Bed &  
Breakfast, Rany Kchao and Thavory Kchao v. Beverly Renee Marlow, at  
Toem and Paula Sullivan  
**Petition for certiorari is denied.**  
ALL JUSTICES CONCUR.

119,781      In the Interest of the child of: Luke Anthony Moorman v. Sonya Mae  
Roberts  
**Petition for certiorari is denied.**  
ALL JUSTICES CONCUR.

119,852      In re the Marriage of: Tracy D. Conlon; OK Dept. Of Human Services,  
Child Support Services v. Russell F. Conlon  
**Petition for certiorari is denied.**  
ALL JUSTICES CONCUR.

120,214      Specialized Loan Servicing, LLC v. Jana Leigh Galpin, as Pers. Rep; and  
The Estate of Harold Dean Johnson  
**Petition for certiorari is denied.**  
ALL JUSTICES CONCUR.

Rec'd (date)	9-25-23
Posted	<i>[Handwritten signatures]</i>
Mailed	<i>[Handwritten signatures]</i>
Distrib	<i>[Handwritten signatures]</i>
Publish	yes <input checked="" type="checkbox"/> no <input type="checkbox"/>

CHIEF JUSTICE

## **Appendix B**



\*1050425464\*

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

AUG 25 2021  
RICK WARREN  
COURT CLERK

109

IN RE THE MARRIAGE OF )  
TRACY D. CONLON, )  
Petitioner, )  
And ) Case No. FD-2016-1357  
RUSSELL G. CONLON, )  
Respondent. )

JOURNAL ENTRY

NOW on this 25th day of June, 2021, the above captioned matter comes on for hearing before me, the undersigned Judge of the District Court in and for Oklahoma County, State of Oklahoma, for hearing on the Respondent's *Motion to Remove Oklahoma Department of Human Services Child Support Services as Necessary Party*. The Petitioner appears in person and by and through her attorney of record, Brooks T. Ray. The Respondent appears in person, *pro se*. Oklahoma Department of Human Services, Child Support Services ("CSS"), appears in person by and through its attorney, David A. Walk.

The Court considers proffered testimony from counsels and sworn testimony from witnesses, taking notice of court file and filed Orders. After consideration of the testimony and argument presented, the Court, **FINDS** and **ORDERS** as follows:

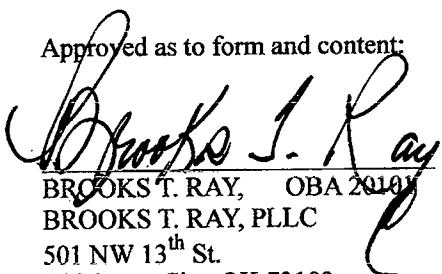
1. *Oklahoma Department of Human Services Child Support Services* is a necessary party.
2. Respondent's *Motion to Remove Oklahoma Department of Human Services Child Support Services as Necessary Party* is denied.
3. Upon announcement of the Judge's ruling on Respondent's motion, Respondent moved for a Rule 15 hearing.
4. Respondent's oral motion for a Rule 15 hearing and Respondent's request for the Judge to withdraw from the case is denied.
5. Motion to Settle is set at 9:00 a.m. on August 20, 2021.

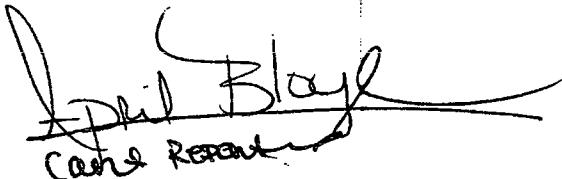
Dated this 35<sup>th</sup> day of August, 2021.

  
HONORABLE MARTHA OAKES  
JUDGE OF THE DISTRICT COURT

FD-2016-1357  
Conlon v. Conlon  
J.S. 6/25/2021

Approved as to form and content:

  
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## **Appendix D**

# CONSTITUTION ANNOTATED

Analysis and Interpretation of the U.S. Constitution

## ArtI.S7.C1.1 Origination Clause and Revenue Bills

Article I, Section 7, Clause 1:

*All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.*

Until ratification of the Seventeenth Amendment in 1913,<sup>1</sup> only members of the House of Representatives were elected by the people directly.<sup>2</sup> To ensure that persons elected directly by the people would have initial responsibility over tax decisions,<sup>3</sup> the Constitution’s Origination Clause directs that all “Bills for raising Revenue shall originate in the House of Representatives.”<sup>4</sup> The Clause permits Senate amendments to such bills.<sup>5</sup> By implication, though, the Senate may not originate bills for raising revenue.<sup>6</sup>

The Origination Clause is part of the procedures that Congress and the President must follow to enact a law.<sup>7</sup> The Clause is a prerogative of the House—it alone is allowed to originate such bills. However, in all Origination Clause challenges, the House has passed a bill containing matter alleged to have improperly originated in the Senate. House passage has not prevented the Court from addressing an Origination Clause challenge.<sup>8</sup>

The typical Origination Clause challenge involves a federal law that requires a person to pay a particular sum. These sums have gone

by various names in statute,<sup>9</sup> including a “tax.”<sup>10</sup> The person challenging the payment requirement focuses on Congress’s consideration of the bill that became law with the payment requirement. The challenger alleges that this bill was one for raising revenue within the meaning of the Origination Clause and that action of the Senate is what first gave the bill its revenue-raising character.<sup>11</sup>

Origination Clause cases potentially pose a factual question and a legal question. The potential factual question is whether the bill that became law containing the challenged payment requirement first took on a revenue-raising character as a result of action by the Senate. The Court has never resolved competing factual claims about origination by, for example, considering evidence of a bill’s content at different stages in its congressional consideration. In a related context, the Court has limited its factual inquiry into the process by which a bill became law, citing the “respect due to” Congress.<sup>12</sup> Similar concerns have impacted the Court’s approach to Origination Clause cases, which has been to resolve only the primary legal question posed by such cases and not competing factual claims about where bill matter actually originated.<sup>13</sup>

This legal question is whether the bill that became law was a “Bill[ ] for raising Revenue.” The House-origination requirement applies only to bills that levy taxes “in the strict sense.”<sup>14</sup> A statute that raises revenue to support the general functions of the Government fits this category.<sup>15</sup> If a bill with a revenue-raising provision originates in the House, the Origination Clause does not prevent the Senate from removing that revenue-raising provision and substituting another in its place.<sup>16</sup> A statute does not levy taxes in the

strict sense—and thus is not subject to House origination—if it establishes a program and raises money for the support of that program in particular.<sup>17</sup> The fact that such a statute might refer to a monetary exaction as a “tax” does not make the bill subject to the Origination Clause.<sup>18</sup>

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### Footnotes

1. ^ See WILLIAM JENNINGS BRYAN, CERTIFICATION OF ADOPTION OF SEVENTEENTH AMENDMENT AS PART OF CONSTITUTION, *reprinted in* 38 Stat. 2049–50 (1915).
2. ^ See Amdt17.2 Historical Background on Popular Election of Senators.
3. ^ Skinner v. Mid-Am. Pipeline Co., 490 U.S. 212, 221 (1989) .
4. ^ U.S. CONST. art. I, § 7, cl. 1.
5. ^ *Id.*
6. ^ See *id.*
7. ^ United States v. Munoz-Flores, 495 U.S. 385, 396–97 (1990)  (rejecting the contention of a dissenting justice that improperly originated bills for raising revenue may nonetheless become law if passed according to the other legislative process requirements of Article I, Section 7).
8. ^ *Id.* at 395 (rejecting the argument that an Origination Clause claim poses a nonjusticiable political question to be decided solely by the House when it decides whether to pass legislation).
9. ^ *Id.* at 388 (special assessment).
10. ^ Millard v. Roberts, 202 U.S. 429, 435 (1906) ; Twin City Nat'l Bank of New Brighton v. Nebecker, 167 U.S. 196, 197 (1897) .
11. ^ Most commonly, one of two types of Senate action has been alleged: either the bill that became law with revenue-raising features was originally introduced in the Senate, see *Millard*, 202 U.S. at 435 (apparently describing relevant bills

as having been introduced in the Senate), or the bill first passed the House without any revenue-raising features, which the Senate then added through amendment, see *Nebecker*, 167 U.S. at 197 (challenge to a “tax on the circulating notes of national banks” that was alleged to have “originated in the Senate, by way of amendment to the House bill,” which bill originally passed the House with no provisions for raising revenue). *But see infra* note 16.

12. ^ See *Marshall Field & Co. v. Clark*, 143 U.S. 649, 672–73, 679 (1892) ↗ (declining to examine the journals of the houses, committee reports, or “other documents printed by authority of Congress” to determine whether, as required by Article I, Section 7, Clause 2, a bill passed both chambers in identical form and was presented to the President in the same form); *see also* Artl.S5.C3.1 Requirement that Congress Keep a Journal.
13. ^ See *Nebecker*, 167 U.S. at 203 (stating that because the Court held that the bill in question was not a “Bill[ ] for raising Revenue,” the Court did not need to “consider whether, for the decision of the question before us, the journals of the two houses of congress can be referred to for the purpose of determining” whether an act “originated in the one body or the other”); *see also* *Rainey v. United States*, 232 U.S. 310, 317 (1914) ↗ (similar); *Flint v. Stone Tracy Co.*, 220 U.S. 107, 143 (1911) ↗ (similar).
14. ^ *United States v. Norton*, 91 U.S. 566, 569 (1875) ↗ (internal quotation marks omitted) (interpreting provisions of criminal law by reference to the Origination Clause’s use of the term “revenue”).
15. ^ *United States v. Munoz-Flores*, 495 U.S. 385, 397–98 (1990) ↗.
16. ^ In *Flint v. Stone Tracy Co.* ↗, a bill allegedly originated in the House containing an inheritance tax, but after House passage of the measure the Senate amended the bill to substitute a corporate tax for the inheritance tax. The Court found no constitutional impediment to this process, because the bill had “properly originated in the House” and the Senate amendment was germane to the bill’s subject matter and not beyond the Senate’s power to propose. 220 U.S. at 143.
17. ^ *Munoz-Flores*, 495 U.S. at 397–98 (concluding that a “special assessment provision was passed as part of a particular program” to compensate and assist crime victims “to provide money for that program”). Earlier cases employed an equivalent framing, asking whether the money-raising aspects of a bill were a

means of achieving the central, non-revenue-raising object of the bill. See *Millard v. Roberts*, 202 U.S. 429, 435–36 (1906) (ruling that taxes imposed on property in the District of Columbia merely financed a bill's central object of infrastructure improvements); *Nebecker*, 167 U.S. at 202–03 (holding that a tax on certain notes was a means of accomplishing a bill's main purpose of providing a national currency and further explaining that the act did not "raise revenue to be applied in meeting the expenses or obligations of the government" more generally).

18. ^ See *Munoz-Flores*, 495 U.S. at 398.

# CONSTITUTION ANNOTATED

Analysis and Interpretation of the U.S. Constitution

## ArtI.S8.C3.1 Overview of Commerce Clause

Article I, Section 8, Clause 3:

*[The Congress shall have Power . . . ] To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes; . . .*

The Commerce Clause gives Congress broad power to regulate interstate commerce and restricts states from impairing interstate commerce. Early Supreme Court cases primarily viewed the Commerce Clause as limiting state power rather than as a source of federal power. Of the approximately 1,400 Commerce Clause cases that the Supreme Court heard before 1900, most stemmed from state legislation.<sup>1</sup> As a consequence, the Supreme Court's early interpretations of the Commerce Clause focused on the meaning of "commerce" while paying less attention to the meaning of "regulate." During the 1930s, however, the Supreme Court increasingly heard cases on Congress's power to regulate commerce, with the result that its interstate Commerce Clause jurisprudence evolved markedly during the twentieth century.

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### Footnotes

1. **E. PRENTICE & J. EGAN, THE COMMERCE CLAUSE OF THE FEDERAL CONSTITUTION 14 (1898).**

# CONSTITUTION ANNOTATED

Analysis and Interpretation of the U.S. Constitution

## Amdt5.5.1 Overview of Due Process

### Fifth Amendment:

*No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.*

The Fifth Amendment provides that “no person” shall be deprived of “life, liberty, or property, without due process of law.”<sup>1</sup> Generally, “due process” guarantees protect individual rights by limiting the exercise of government power.<sup>2</sup> The Supreme Court has held that the Fifth Amendment, which applies to federal government action, provides persons with both procedural and substantive due process guarantees. If the federal government seeks to deprive a person of a protected life, liberty, or property interest, the Fifth Amendment’s Due Process Clause requires that the government first provide certain procedural protections.<sup>3</sup> Procedural due process often requires the government to provide a person with notice and an opportunity for a hearing before such a deprivation.<sup>4</sup> In addition, the

Supreme Court has interpreted the Fifth Amendment's Due Process Clause to include substantive due process guarantees that protect certain fundamental constitutional rights from federal government interference, regardless of the procedures that the government follows when enforcing the law.<sup>5</sup> Substantive due process has generally dealt with specific subject areas, such as liberty of contract, marriage, or privacy.

The Fifth Amendment's Due Process Clause protects all persons within U.S. territory, including corporations,<sup>6</sup> aliens,<sup>7</sup> and, presumptively, citizens seeking readmission to the United States.<sup>8</sup> However, the states are not entitled to due process protections against the federal government.<sup>9</sup> The clause is effective in the District of Columbia<sup>10</sup> and in territories that are part of the United States,<sup>11</sup> but it does not apply of its own force to unincorporated territories.<sup>12</sup> Nor does it reach enemy alien belligerents tried by military tribunals outside the territorial jurisdiction of the United States.<sup>13</sup> The Clause restrains Congress in addition to the Executive and Judicial Branches and “cannot be so construed as to leave Congress free to make any process ‘due process of law’ by enacting legislation to that effect.”<sup>14</sup>

Due process cases may arise under both the Fifth and Fourteenth Amendments. Both amendments use the same language but have a different history.<sup>15</sup> The Supreme Court has construed the Fourteenth Amendment's Due Process Clause to impose the same due process limitations on the states as the Fifth Amendment does on the federal government.<sup>16</sup> Fourteenth Amendment due process case law is therefore relevant to the interpretation of the Fifth Amendment. Except for areas in which the federal government is the actor, much of

the *Constitution Annotated*'s discussion of due process appears in the Fourteenth Amendment essays.<sup>17</sup>

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### Footnotes

1. ^ U.S. CONST. amend. V.
2. ^ *Due Process*, BLACK'S LAW DICTIONARY 610 (10th ed. 2014).
3. ^ See *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972) ↗ (citing *Cafeteria & Restaurant Workers Union v. McElroy*, 367 U.S. 886, 895 (1961) ↗).
4. ^ *Twining v. New Jersey*, 211 U.S. 78, 110 (1908) ↗; *Jacob v. Roberts*, 223 U.S. 261, 265 (1912) ↗.
5. ^ E.g., *Zablocki v. Redhail*, 434 U.S. 374, 386–87 (1978) ↗ (citing *Loving v. Virginia*, 388 U. S. 1 (1967)).
6. ^ *Sinking Fund Cases*, 99 U.S. 700, 719 (1879) ↗.
7. ^ *Wong Wing v. United States*, 163 U.S. 228, 238 (1896) ↗.
8. ^ *United States v. Ju Toy*, 198 U.S. 253, 263 (1905) ↗; cf. *Quon Quon Poy v. Johnson*, 273 U.S. 352 (1927) ↗.
9. ^ *South Carolina v. Katzenbach*, 383 U.S. 301, 323–24 (1966) ↗.
10. ^ *Wight v. Davidson*, 181 U.S. 371, 384 (1901) ↗.
11. ^ *Lovato v. New Mexico*, 242 U.S. 199, 201 (1916) ↗.
12. ^ *Public Utility Comm'r's v. Ynchausti & Co.*, 251 U.S. 401, 406 (1920) ↗.
13. ^ *Johnson v. Eisentrager*, 339 U.S. 763 (1950) ↗; *In re Yamashita*, 327 U.S. 1 (1946) ↗.
14. ^ *Murray's Lessee v. Hoboken Land & Improvement Co.*, 59 U.S. (18 How.) 272, 276 (1856) ↗. See also Massachusetts Supreme Judicial Court Chief Justice Lemuel Shaw's opinion in *Jones v. Robbins*, 74 Mass. (8 Gray) 329 (1857).
15. ^ *French v. Barber Asphalt Paving Co.*, 181 U.S. 324, 328 (1901) ↗.

16. ^ Cf. *Arnett v. Kennedy*, 416 U.S. 134 (1974) ↗; *Heiner v. Donnan*, 285 U.S. 312, 326 (1932) ↗ ("The restraint imposed upon legislation by the due process clauses of the two amendments is the same."); *Morehead v. New York ex rel. Tipaldo*, 298 U.S. 587, 610 (1936) ↗.
17. ^ See Amdt14.S1.3 Due Process Generally.

[LII](#) > [U.S. Constitution](#) > **Sixth Amendment**

## Sixth Amendment

The Sixth Amendment guarantees the rights of criminal defendants, including the right to a public trial without unnecessary delay, the right to a lawyer, the right to an impartial jury, and the right to know who your accusers are and the nature of the charges and evidence against you. It has been most visibly tested in a series of cases involving terrorism, but much more often figures in cases that involve (for example) jury selection or the protection of witnesses, including victims of sex crimes as well as witnesses in need of protection from retaliation.

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### Amendment VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

[< Fifth Amendment](#) [up](#) [forum selection clause](#) [>](#)

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LII > U.S. Constitution > **14th Amendment**

## 14th Amendment

The Fourteenth Amendment addresses many aspects of citizenship and the rights of citizens. The most commonly used -- and frequently litigated -- phrase in the amendment is "equal protection of the laws", which figures prominently in a wide variety of landmark cases, including Brown v. Board of Education (racial discrimination), Roe v. Wade (reproductive rights), Bush v. Gore (election recounts), Reed v. Reed (gender discrimination), and University of California v. Bakke (racial quotas in education). See more...

### Amendment XIV

#### Section 1.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

#### Section 2.

Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way

abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

### Section 3.

No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

### Section 4.

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

### Section 5.

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

wex resources

#### Section 1.

Privileges and Immunities Clause

Civil Rights

Slaughterhouse Cases

Due Process

Substantive Due Process

Right of Privacy: Personal Autonomy

Territorial Jurisdiction

Equal Protection

Plessy v. Ferguson (1896)

Plyer v. Doe (1982)

Section 4.

Debt

Section 5.

Enforcement Power

Commerce Clause

< 13th Amendment up 15th Amendment >



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> CHAPTER III—OFFICE OF CHILD SUPPORT ENFORCEMENT (CHILD SUPPORT ENFORCEMENT PROGRAM), ADMINISTRATION FOR CHILDREN AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES  
> PART 303—STANDARDS FOR PROGRAM OPERATIONS  
> **§ 303.31 Securing and enforcing medical support obligations.**

## 45 CFR § 303.31 - Securing and enforcing medical support obligations.

CFR      State Regulations

---

### **§ 303.31 Securing and enforcing medical support obligations.**

**(a)** For purposes of this section:

**(1)** Cash medical support means an amount ordered to be paid toward the cost of health insurance provided by a public entity or by another parent through employment or otherwise, or for other medical costs not covered by insurance.

**(2)** Health care coverage includes fee for service, health maintenance organization, preferred provider organization, and other types of private health insurance and public health care coverage under which medical services could be provided to the dependent child(ren).

**(3)** Cash medical support or the cost of health insurance is considered reasonable in cost if the cost to the parent responsible for providing medical support does not exceed five percent of his or her gross income or, at State option, a reasonable

alternative income-based numeric standard defined in State law, regulations, or court rule having the force of law or State child support guidelines adopted in accordance with § 302.56(c) of this chapter.

**(b)** The State IV-D agency must:

**(1)** Petition the court or administrative authority to—

**(i)** Include health care coverage that is accessible to the child(ren), as defined by the State, and is available to the parent responsible for providing medical support and can be obtained for the child at reasonable cost, as defined under paragraph (a)(3) of this section, in new or modified court or administrative orders for support; and

**(ii)** Allocate the cost of coverage between the parents.

**(2)** If health care coverage described in paragraph (b)(1) of this section is not available at the time the order is entered or modified, petition to include cash medical support in new or modified orders until such time as health care coverage, that is accessible and reasonable in cost as defined under paragraph (a)(3) of this section, becomes available. In appropriate cases, as defined by the State, cash medical support may be sought in addition to health care coverage.

**(3)** Establish criteria, which are reflected in a record, to identify orders that do not address the health care needs of children based on—

**(i)** Evidence that health care coverage may be available to either parent at reasonable cost, as defined under paragraph (a)(3) of this section; and

**(ii)** Facts, as defined by State law, regulation, procedure, or other directive, and review and adjustment requirements under § 303.8(d) of this part, which are sufficient to warrant modification of the existing support order to address the health care needs of children in accordance with paragraph (b)(1) of this section.

**(4)** Petition the court or administrative authority to modify support orders, in accordance with State child support guidelines, for cases identified in paragraph (b)(3) of this section to include health care coverage and/or cash medical support in accordance with paragraphs (b)(1) and (2) of this section.

**(5)** Periodically communicate with the Medicaid agency to determine whether there have been lapses in health insurance coverage for Medicaid applicants and recipients.

**(c)** The IV-D agency shall inform an individual who is eligible for services under § 302.33 of this chapter that medical support services will be provided and shall provide the services specified in paragraph (b) of this section.

[73 FR 42441, July 21, 2008, as amended at 81 FR 93566, Dec. 20, 2016]



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## 42 U.S. Code § 656 - Support obligation as obligation to State; amount; discharge in bankruptcy

[U.S. Code](#) [Notes](#)**(a) COLLECTION PROCESSES**

**(1)** The support rights assigned to the State pursuant to section 608(a)(3) of this title or secured on behalf of a child receiving foster care maintenance payments shall constitute an obligation owed to such State by the individual responsible for providing such support. Such obligation shall be deemed for collection purposes to be collectible under all applicable State and local processes.

**(2)** The amount of such obligation shall be—

**(A)** the amount specified in a court order which covers the assigned support rights, or

**(B)** if there is no court order, an amount determined by the State in accordance with a formula approved by the Secretary.

**(3)** Any amounts collected from a noncustodial parent under the plan shall reduce, dollar for dollar, the amount of his obligation under subparagraphs (A) and (B) of paragraph (2).

**(b) NONDISCHARGEABILITY**

A debt (as defined in section 101 of title 11) owed under State law to a State (as defined in such section) or municipality (as defined in such section) that is in the nature of support and that is enforceable under this part is not released by a discharge in bankruptcy under title 11.

(Aug. 14, 1935, ch. 531, title IV, § 456, as added Pub. L. 93-647, § 101(a), Jan. 4, 1975, 88 Stat. 2356; amended Pub. L. 95-598, title III, § 328, Nov. 6, 1978, 92 Stat. 2679; Pub. L. 97-35, title XXIII, § 2334(a), Aug. 13, 1981, 95 Stat. 863; Pub. L. 98-369, div. B, title VI, § 2663(c)(15), July 18, 1984, 98 Stat. 1167; Pub. L. 98-378, § 11(b)(2), Aug. 16, 1984, 98 Stat. 1318; Pub. L. 104-193, title I, § 108(c)(13), title III, §§ 374(b), 395(d)(2)(C), Aug. 22, 1996, 110 Stat. 2166, 2255, 2260; Pub. L. 105-33, title V, §§ 5513(a)(3), 5556(d), Aug. 5, 1997, 111 Stat. 619, 637.)

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## 42 U.S. Code § 608 - Prohibitions; requirements

U.S. Code      Notes

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### **(a) IN GENERAL**

#### **(1) NO ASSISTANCE FOR FAMILIES WITHOUT A MINOR CHILD**

A State to which a grant is made under section 603 of this title shall not use any part of the grant to provide assistance to a family, unless the family includes a minor child who resides with the family (consistent with paragraph (10)) or a pregnant individual.

#### **(2) REDUCTION OR ELIMINATION OF ASSISTANCE FOR NONCOOPERATION IN ESTABLISHING PATERNITY OR OBTAINING CHILD SUPPORT**

If the agency responsible for administering the State plan approved under part D determines that an individual is not cooperating with the State in

establishing paternity or in establishing, modifying, or enforcing a support order with respect to a child of the individual, and the individual does not qualify for any good cause or other exception established by the State pursuant to section 654(29) of this title, then the State—

(A) shall deduct from the assistance that would otherwise be provided to the family of the individual under the State program funded under this part an amount equal to not less than 25 percent of the amount of such assistance; and

(B) may deny the family any assistance under the State program.

**(3) No assistance for families not assigning certain support rights to the State**

A State to which a grant is made under section 603 of this title shall require, as a condition of paying assistance to a family under the State program funded under this part, that a member of the family assign to the State any right the family member may have (on behalf of the family member or of any other person for whom the family member has applied for or is receiving such assistance) to support from any other person, not exceeding the total amount of assistance so paid to the family, which accrues during the period that the family receives assistance under the program.

**(4) No assistance for teenage parents who do not attend high school or other equivalent training program**

A State to which a grant is made under section 603 of this title shall not use any part of the grant to provide assistance to an individual who has not attained 18 years of age, is not married, has a minor child at least 12 weeks of age in his or her care, and has not successfully completed a high-school education (or its equivalent), if the individual does not participate in

(A) educational activities directed toward the attainment of a high school diploma or its equivalent; or

(B) an alternative educational or training program that has been approved by the State.

**(5) No assistance for teenage parents not living in adult-supervised settings**

(A) **In general**

(i) **Requirement**

Except as provided in subparagraph (B), a State to which a grant is made under section 603 of this title shall not use any part of the grant to provide assistance to an individual described in clause (ii) of this subparagraph if the individual and the minor child referred to in clause (ii)(II) do not reside in a place of residence maintained by a parent, legal guardian, or other adult relative of the individual as such parent's, guardian's, or adult relative's own home.

#### **(ii) Individual described**

For purposes of clause (i), an individual described in this clause is an individual who—

- (I)** has not attained 18 years of age; and
- (II)** is not married, and has a minor child in his or her care.

#### **(B) Exception**

##### **(i) Provision of, or assistance in locating, adult-supervised living arrangement**

In the case of an individual who is described in clause (ii), the State agency referred to in section 602(a)(4) of this title shall provide, or assist the individual in locating, a second chance home, maternity home, or other appropriate adult-supervised supportive living arrangement, taking into consideration the needs and concerns of the individual, unless the State agency determines that the individual's current living arrangement is appropriate, and thereafter shall require that the individual and the minor child referred to in subparagraph (A)(ii)(II) reside in such living arrangement as a condition of the continued receipt of assistance under the State program funded under this part attributable to funds provided by the Federal Government (or in an alternative appropriate arrangement, should circumstances change and the current arrangement cease to be appropriate).

#### **(ii) Individual described**

For purposes of clause (i), an individual is described in this clause if the individual is described in subparagraph (A)(ii), and—

- (I)** the individual has no parent, legal guardian, or other appropriate adult relative described in subclause (II) of his or her own who is living or whose whereabouts are known;

**(II) no living parent, legal guardian, or other appropriate adult relative, who would otherwise meet applicable State criteria to act as the individual's legal guardian, of such individual allows the individual to live in the home of such parent, guardian, or relative;**

**(III) the State agency determines that—**

**(aa) the individual or the minor child referred to in subparagraph (A)(ii)(II) is being or has been subjected to serious physical or emotional harm, sexual abuse, or exploitation in the residence of the individual's own parent or legal guardian; or**

**(bb) substantial evidence exists of an act or failure to act that presents an imminent or serious harm if the individual and the minor child lived in the same residence with the individual's own parent or legal guardian; or**

**(IV) the State agency otherwise determines that it is in the best interest of the minor child to waive the requirement of subparagraph (A) with respect to the individual or the minor child.**

**(iii) Second-chance home**

For purposes of this subparagraph, the term "second-chance home" means an entity that provides individuals described in clause (ii) with a supportive and supervised living arrangement in which such individuals are required to learn parenting skills, including child development, family budgeting, health and nutrition, and other skills to promote their long-term economic independence and the well-being of their children.

**(6) No MEDICAL SERVICES**

**(A) In general**

A State to which a grant is made under section 603 of this title shall not use any part of the grant to provide medical services.

**(B) Exception for prepregnancy family planning services**

As used in subparagraph (A), the term "medical services" does not include prepregnancy family planning services.

**(7) No ASSISTANCE FOR MORE THAN 5 YEARS**

**(A) In general**

A State to which a grant is made under section 603 of this title shall not use any part of the grant to provide assistance to a family that includes an adult who has received assistance under any State program funded under this part attributable to funds provided by the Federal Government, for 60 months (whether or not consecutive) after the date the State program funded under this part commences, subject to this paragraph.

**(B) Minor child exception**

In determining the number of months for which an individual who is a parent or pregnant has received assistance under the State program funded under this part, the State shall disregard any month for which such assistance was provided with respect to the individual and during which the individual was—

- (i) a minor child; and**
- (ii) not the head of a household or married to the head of a household.**

**(C) Hardship exception**

**(i) In general**

The State may exempt a family from the application of subparagraph (A) by reason of hardship or if the family includes an individual who has been battered or subjected to extreme cruelty.

**(ii) Limitation**

The average monthly number of families with respect to which an exemption made by a State under clause (i) is in effect for a fiscal year shall not exceed 20 percent of the average monthly number of families to which assistance is provided under the State program funded under this part during the fiscal year or the immediately preceding fiscal year (but not both), as the State may elect.

**(iii) Battered or subject to extreme cruelty defined**

For purposes of clause (i), an individual has been battered or subjected to extreme cruelty if the individual has been subjected to

—  
**(I) physical acts that resulted in, or threatened to result in, physical injury to the individual;**

**(II) sexual abuse;**

- (III) sexual activity involving a dependent child;**
- (IV) being forced as the caretaker relative of a dependent child to engage in nonconsensual sexual acts or activities;**
- (V) threats of, or attempts at, physical or sexual abuse;**
- (VI) mental abuse; or**
- (VII) neglect or deprivation of medical care.**

**(D) Disregard of months of assistance received by adult while living in Indian country or an Alaskan Native village with 50 percent unemployment**

**(i) In general**

In determining the number of months for which an adult has received assistance under a State or tribal program funded under this part, the State or tribe shall disregard any month during which the adult lived in Indian country or an Alaskan Native village if the most reliable data available with respect to the month (or a period including the month) indicate that at least 50 percent of the adults living in Indian country or in the village were not employed.

**(ii) "Indian country" defined**

As used in clause (i), the term "Indian country" has the meaning given such term in section 1151 of title 18.

**(E) Rule of interpretation**

Subparagraph (A) shall not be interpreted to require any State to provide assistance to any individual for any period of time under the State program funded under this part.

**(F) Rule of interpretation**

This part shall not be interpreted to prohibit any State from expending State funds not originating with the Federal Government on benefits for children or families that have become ineligible for assistance under the State program funded under this part by reason of subparagraph (A).

**(G) Inapplicability to welfare-to-work grants and assistance**

For purposes of subparagraph (A) of this paragraph, a grant made under section 603(a)(5) of this title shall not be considered a grant made under section 603 of this title, and noncash assistance from funds provided under section 603(a)(5) of this title shall not be considered assistance.

**(8) DENIAL OF ASSISTANCE FOR 10 YEARS TO A PERSON FOUND TO HAVE FRAUDULENTLY**

**MISREPRESENTED RESIDENCE IN ORDER TO OBTAIN ASSISTANCE IN 2 OR MORE STATES**

A State to which a grant is made under section 603 of this title shall not use any part of the grant to provide cash assistance to an individual during the 10-year period that begins on the date the individual is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the individual in order to receive assistance simultaneously from 2 or more States under programs that are funded under this subchapter, subchapter XIX, or the Food and Nutrition Act of 2008 [7 U.S.C. 2011 et seq.], or benefits in 2 or more States under the supplemental security income program under subchapter XVI. The preceding sentence shall not apply with respect to a conviction of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct which was the subject of the conviction.

**(9) DENIAL OF ASSISTANCE FOR FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS**

**(A) In general**

A State to which a grant is made under section 603 of this title shall not use any part of the grant to provide assistance to any individual who is

—

**(i)** fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the individual flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State; or

**(ii)** violating a condition of probation or parole imposed under Federal or State law.

The preceding sentence shall not apply with respect to conduct of an individual, for any month beginning after the President of the United States grants a pardon with respect to the conduct.

**(B) Exchange of information with law enforcement agencies**

If a State to which a grant is made under section 603 of this title establishes safeguards against the use or disclosure of information about applicants or recipients of assistance under the State program funded under this part, the safeguards shall not prevent the State agency administering the program from furnishing a Federal, State, or local law enforcement officer, upon the request of the officer, with the current address of any recipient if the officer furnishes the agency with the name of the recipient and notifies the agency that—

(i) the recipient—

(I) is described in subparagraph (A); or

(II) has information that is necessary for the officer to conduct the official duties of the officer; and

(ii) the location or apprehension of the recipient is within such official duties.

**(10) DENIAL OF ASSISTANCE FOR MINOR CHILDREN WHO ARE ABSENT FROM THE HOME FOR A SIGNIFICANT PERIOD**

**(A) In general**

A State to which a grant is made under section 603 of this title shall not use any part of the grant to provide assistance for a minor child who has been, or is expected by a parent (or other caretaker relative) of the child to be, absent from the home for a period of 45 consecutive days or, at the option of the State, such period of not less than 30 and not more than 180 consecutive days as the State may provide for in the State plan submitted pursuant to section 602 of this title.

**(B) State authority to establish good cause exceptions**

The State may establish such good cause exceptions to subparagraph (A) as the State considers appropriate if such exceptions are provided for in the State plan submitted pursuant to section 602 of this title.

**(C) Denial of assistance for relative who fails to notify State agency of absence of child**

A State to which a grant is made under section 603 of this title shall not use any part of the grant to provide assistance for an individual who is a parent (or other caretaker relative) of a minor child and who fails to notify the agency administering the State program funded under this part of the

absence of the minor child from the home for the period specified in or provided for pursuant to subparagraph (A), by the end of the 5-day period that begins with the date that it becomes clear to the parent (or relative) that the minor child will be absent for such period so specified or provided for.

**(11) MEDICAL ASSISTANCE REQUIRED TO BE PROVIDED FOR CERTAIN FAMILIES HAVING EARNINGS FROM EMPLOYMENT OR CHILD SUPPORT**

**(A) Earnings from employment**

A State to which a grant is made under section 603 of this title and which has a State plan approved under subchapter XIX shall provide that in the case of a family that is treated (under section 1396u-1(b)(1)(A) of this title for purposes of subchapter XIX) as receiving aid under a State plan approved under this part (as in effect on July 16, 1996), that would become ineligible for such aid because of hours of or income from employment of the caretaker relative (as defined under this part as in effect on such date) or because of section 602(a)(8)(B)(ii)(II) of this title (as so in effect), and that was so treated as receiving such aid in at least 3 of the 6 months immediately preceding the month in which such ineligibility begins, the family shall remain eligible for medical assistance under the State's plan approved under subchapter XIX for an extended period or periods as provided in section 1396r-6 or 1396a(e)(1) of this title (as applicable), and that the family will be appropriately notified of such extension as required by section 1396r-6(a)(2) of this title.

**(B) Child support**

A State to which a grant is made under section 603 of this title and which has a State plan approved under subchapter XIX shall provide that in the case of a family that is treated (under section 1396u-1(b)(1)(A) of this title for purposes of subchapter XIX) as receiving aid under a State plan approved under this part (as in effect on July 16, 1996), that would become ineligible for such aid as a result (wholly or partly) of the collection of child or spousal support under part D and that was so treated as receiving such aid in at least 3 of the 6 months immediately preceding the month in which such ineligibility begins, the family shall remain eligible for medical assistance under the State's plan approved under subchapter XIX for an extended period or periods as provided in section 1396u-1(c)(1) of this title.

**(12) STATE REQUIREMENT TO PREVENT UNAUTHORIZED SPENDING OF BENEFITS**

**(A) In general**

A State to which a grant is made under section 603 of this title shall maintain policies and practices as necessary to prevent assistance provided under the State program funded under this part from being used in any electronic benefit transfer transaction in—

- (i) any liquor store;
- (ii) any casino, gambling casino, or gaming establishment; or
- (iii) any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

**(B) Definitions**

For purposes of subparagraph (A)—

**(i) Liquor store**

The term “liquor store” means any retail establishment which sells exclusively or primarily intoxicating liquor. Such term does not include a grocery store which sells both intoxicating liquor and groceries including staple foods (within the meaning of section 3(r) of the Food and Nutrition Act of 2008 (7 U.S.C. 2012(r))).<sup>11</sup>

**(ii) Casino, gambling casino, or gaming establishment**

The terms “casino”, “gambling casino”, and “gaming establishment” do not include—

- (I) a grocery store which sells groceries including such staple foods and which also offers, or is located within the same building or complex as, casino, gambling, or gaming activities; or
- (II) any other establishment that offers casino, gambling, or gaming activities incidental to the principal purpose of the business.

**(iii) Electronic benefit transfer transaction**

The term “electronic benefit transfer transaction” means the use of a credit or debit card service, automated teller machine, point-of-sale terminal, or access to an online system for the withdrawal of funds or the processing of a payment for merchandise or a service.

**(b) INDIVIDUAL RESPONSIBILITY PLANS****(1) ASSESSMENT**

The State agency responsible for administering the State program funded under this part shall make an initial assessment of the skills, prior work experience, and employability of each recipient of assistance under the program who—

- (A)** has attained 18 years of age; or
- (B)** has not completed high school or obtained a certificate of high school equivalency, and is not attending secondary school.

**(2) CONTENTS OF PLANS****(A) In general**

On the basis of the assessment made under subsection (a) with respect to an individual, the State agency, in consultation with the individual, may develop an individual responsibility plan for the individual, which—

- (i)** sets forth an employment goal for the individual and a plan for moving the individual immediately into private sector employment;
- (ii)** sets forth the obligations of the individual, which may include a requirement that the individual attend school, maintain certain grades and attendance, keep school age children of the individual in school, immunize children, attend parenting and money management classes, or do other things that will help the individual become and remain employed in the private sector;
- (iii)** to the greatest extent possible is designed to move the individual into whatever private sector employment the individual is capable of handling as quickly as possible, and to increase the responsibility and amount of work the individual is to handle over time;
- (iv)** describes the services the State will provide the individual so that the individual will be able to obtain and keep employment in the private sector, and describe the job counseling and other services that will be provided by the State; and
- (v)** may require the individual to undergo appropriate substance abuse treatment.

**(B) Timing**

The State agency may comply with paragraph (1) with respect to an individual—

- (i) within 90 days (or, at the option of the State, 180 days) after the effective date of this part, in the case of an individual who, as of such effective date, is a recipient of aid under the State plan approved under part A (as in effect immediately before such effective date); or
- (ii) within 30 days (or, at the option of the State, 90 days) after the individual is determined to be eligible for such assistance, in the case of any other individual.

**(3) PENALTY FOR NONCOMPLIANCE BY INDIVIDUAL**

In addition to any other penalties required under the State program funded under this part, the State may reduce, by such amount as the State considers appropriate, the amount of assistance otherwise payable under the State program to a family that includes an individual who fails without good cause to comply with an individual responsibility plan signed by the individual.

**(4) STATE DISCRETION**

The exercise of the authority of this subsection shall be within the sole discretion of the State.

**(c) SANCTIONS AGAINST RECIPIENTS NOT CONSIDERED WAGE REDUCTIONS**

A penalty imposed by a State against the family of an individual by reason of the failure of the individual to comply with a requirement under the State program funded under this part shall not be construed to be a reduction in any wage paid to the individual.

**(d) NONDISCRIMINATION PROVISIONS**

The following provisions of law shall apply to any program or activity which receives funds provided under this part:

- (1) The Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).
- (2) Section 794 of title 29.
- (3) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

**(4) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).**

**(e) SPECIAL RULES RELATING TO TREATMENT OF CERTAIN ALIENS**

For special rules relating to the treatment of certain aliens, see title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 [8 U.S.C. 1601 et seq.].

**(f) SPECIAL RULES RELATING TO TREATMENT OF NON-213A ALIENS**

The following rules shall apply if a State elects to take the income or resources of any sponsor of a non-213A alien into account in determining whether the alien is eligible for assistance under the State program funded under this part, or in determining the amount or types of such assistance to be provided to the alien:

**(1) DEEMING OF SPONSOR'S INCOME AND RESOURCES**

For a period of 3 years after a non-213A alien enters the United States:

**(A) Income deeming rule**

The income of any sponsor of the alien and of any spouse of the sponsor is deemed to be income of the alien, to the extent that the total amount of the income exceeds the sum of—

**(i) the lesser of—**

**(I) 20 percent of the total of any amounts received by the sponsor or any such spouse in the month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by the sponsor and any such spouse in producing self-employment income in such month; or**

**(II) \$175;**

**(ii) the cash needs standard established by the State for purposes of determining eligibility for assistance under the State program funded under this part for a family of the same size and composition as the sponsor and any other individuals living in the same household as the sponsor who are claimed by the sponsor as dependents for purposes of determining the sponsor's Federal personal income tax liability but whose needs are not taken into account in determining whether the sponsor's family has met the cash needs standard;**

- (iii) any amounts paid by the sponsor or any such spouse to individuals not living in the household who are claimed by the sponsor as dependents for purposes of determining the sponsor's Federal personal income tax liability; and
- (iv) any payments of alimony or child support with respect to individuals not living in the household.

**(B) Resource deeming rule**

The resources of a sponsor of the alien and of any spouse of the sponsor are deemed to be resources of the alien to the extent that the aggregate value of the resources exceeds \$1,500.

**(C) Sponsors of multiple non-213A aliens**

If a person is a sponsor of 2 or more non-213A aliens who are living in the same home, the income and resources of the sponsor and any spouse of the sponsor that would be deemed income and resources of any such alien under subparagraph (A) shall be divided into a number of equal shares equal to the number of such aliens, and the State shall deem the income and resources of each such alien to include 1 such share.

**(2) INELIGIBILITY OF NON-213A ALIENS SPONSORED BY AGENCIES; EXCEPTION**

A non-213A alien whose sponsor is or was a public or private agency shall be ineligible for assistance under a State program funded under this part, during a period of 3 years after the alien enters the United States, unless the State agency administering the program determines that the sponsor either no longer exists or has become unable to meet the alien's needs.

**(3) INFORMATION PROVISIONS**

**(A) Duties of non-213A aliens**

A non-213A alien, as a condition of eligibility for assistance under a State program funded under this part during the period of 3 years after the alien enters the United States, shall be required to provide to the State agency administering the program—

- (i) such information and documentation with respect to the alien's sponsor as may be necessary in order for the State agency to make any determination required under this subsection, and to obtain any cooperation from the sponsor necessary for any such determination; and

**(ii)** such information and documentation as the State agency may request and which the alien or the alien's sponsor provided in support of the alien's immigration application.

**(B) Duties of Federal agencies**

The Secretary shall enter into agreements with the Secretary of State and the Attorney General under which any information available to them and required in order to make any determination under this subsection will be provided by them to the Secretary (who may, in turn, make the information available, upon request, to a concerned State agency).

**(4) "Non-213A ALIEN" DEFINED**

An alien is a non-213A alien for purposes of this subsection if the affidavit of support or similar agreement with respect to the alien that was executed by the sponsor of the alien's entry into the United States was executed other than pursuant to section 213A of the Immigration and Nationality Act [8 U.S.C. 1183a].

**(5) INAPPLICABILITY TO ALIEN MINOR SPONSORED BY A PARENT**

This subsection shall not apply to an alien who is a minor child if the sponsor of the alien or any spouse of the sponsor is a parent of the alien.

**(6) INAPPLICABILITY TO CERTAIN CATEGORIES OF ALIENS**

This subsection shall not apply to an alien who is—

**(A)** admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act [8 U.S.C. 1157];

**(B)** paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. 1182(d)(5)] for a period of at least 1 year; or

**(C)** granted political asylum by the Attorney General under section 208 of such Act [8 U.S.C. 1158].

**(g) STATE REQUIRED TO PROVIDE CERTAIN INFORMATION**

Each State to which a grant is made under section 603 of this title shall, at least 4 times annually and upon request of the Immigration and Naturalization Service, furnish the Immigration and Naturalization Service with the name and address of, and other identifying information on, any individual who the State knows is not lawfully present in the United States.

(Aug. 14, 1935, ch. 531, title IV, § 408, as added Pub. L. 104-193, title I, § 103(a)(1), Aug. 22, 1996, 110 Stat. 2134; amended Pub. L. 105-33, title V, §§ 5001(d), (h)(1), 5505, 5514(c), 5532(b)(2), 5581(a), Aug. 5, 1997, 111 Stat. 591, 593, 610, 620, 626, 642; Pub. L. 109-171, title VII, § 7301(a), Feb. 8, 2006, 120 Stat. 141; Pub. L. 110-234, title IV, § 4002(b)(1)(B), (2)(V), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110-246, § 4(a), title IV, § 4002(b)(1)(B), (2)(V), June 18, 2008, 122 Stat. 1664, 1857, 1858; Pub. L. 112-96, title IV, § 4004(a), Feb. 22, 2012, 126 Stat. 197.)

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## **Appendix E**

## Section V-33

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### **Section V-33: Revenue bills - Origination - Amendment - Limitations on passage - Effective date - Submission to voters.**

- A. All bills for raising revenue shall originate in the House of Representatives. The Senate may propose amendments to revenue bills.
- B. No revenue bill shall be passed during the five last days of the session.
- C. Any revenue bill originating in the House of Representatives shall not become effective until it has been referred to the people of the state at the next general election held throughout the state and shall become effective and be in force when it has been approved by a majority of the votes cast on the measure at such election and not otherwise, except as otherwise provided in subsection D of this section.
- D. Any revenue bill originating in the House of Representatives may become law without being submitted to a vote of the people of the state if such bill receives the approval of three-fourths (3/4) of the membership of the House of Representatives and three-fourths (3/4) of the membership of the Senate and is submitted to the Governor for appropriate action. Any such revenue bill shall not be subject to the emergency measure provision authorized in Section 58 of this Article and shall not become effective and be in force until ninety days after it has been approved by the Legislature, and acted on by the Governor.

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# **2022 Oklahoma Statutes**

## **Title 56. Poor Persons**

### **§56-230.52. Minimum mandatory requirements for Temporary Assistance for Needy Families (TANF) program - Information management - Implementation guidelines - List of recipients - Grant diversion program and emergency assistance services authorized.**

**Universal Citation:** 56 OK Stat § 230.52 (2022)

A. Except for specific exceptions, conditions or restrictions authorized by the Statewide Temporary Assistance Responsibility System (STARS) and rules promulgated by the Commission for Human Services pursuant thereto, the following are the minimum mandatory requirements for the Temporary Assistance for Needy Families (TANF) program:

1. A recipient shall be eligible to receive assistance pursuant to the TANF program only for a lifetime total of five (5) years, subject to the exemptions allowed by federal law. Child-only cases are not subject to the five-year limitation;

2. Single parents receiving temporary assistance pursuant to the TANF program shall participate in work activities for a minimum of twenty (20) hours per week during the month. Two-parent families receiving temporary assistance pursuant to the TANF program shall participate in work activities for a minimum of thirty-five (35) hours per week during the month;

3. A recipient must be engaged in one or more of the work activities set out in paragraph 4 of this subsection as soon as required by the Department of Human Services pursuant to the TANF program, but not later than twenty-four (24) months after certification of the application for assistance, unless the person is exempt from work requirements under rules promulgated by the Commission pursuant to the STARS;

4. The Department shall develop and describe categories of approved work activities for the TANF program recipients in accordance with this paragraph. Work activities that qualify in meeting the requirements include, but are not limited to:

- a. (1) unsubsidized employment which is full-time employment or part-time employment that is not directly supplemented by federal or state funds,  
(2) subsidized private sector employment which is employment in a private for-profit enterprise or a private not-for-profit enterprise that is directly supplemented by federal or state funds. Prior to receiving any subsidy or incentive, the employer shall enter into a written contract with the Department, and  
(3) subsidized public sector employment which is employment by an agency of a federal, state, or local governmental entity which is directly supplemented by federal or state funds. Prior to receiving any subsidy or incentive, the employer shall enter into a written contract with the Department.

Subsidized hourly employment or unsubsidized hourly employment pursuant to this subparagraph shall only be approved by the Department as work activity if such employment is subject to:

- (a) the federal minimum wage requirements pursuant to the Fair Labor Standards Act of 1938, as amended,
- (b) the federal Social Security tax and Medicare tax, and
- (c) regulations promulgated pursuant to the federal Occupational Safety and Health Act of 1970 and rules promulgated by the State Department of Labor pursuant thereto,

- b. a program of work experience,
- c. on-the-job training,

- d. assisted job search which may include supervised or unsupervised job-seeking activities,
- e. job readiness assistance which may include, but is not limited to:
  - (1) orientation in the work environment and basic job-seeking and job retention skills,
  - (2) instruction in completing an application for employment and writing a resume, and
  - (3) instruction in conducting oneself during a job interview, including appropriate dress,
- f. job skills training which is directly related to employment in a specific occupation for which there is a written commitment by an employer to offer employment to a recipient who successfully completes the training. Job skills training includes, but is not limited to, customized training designed to meet the needs of a specific employer or a specific industry,
- g. community service programs which are job-training activities provided in areas where sufficient public or private sector employment is not available. Such activities are linked to both education or training and activities that substantially enhance a recipient's employability,
- h. literacy and adult basic education programs,
- i. vocational-educational programs, not to exceed twelve (12) months for any individual, which are directed toward vocational-educational training and education directly related to employment,
- j. education programs which are directly related to specific employment opportunities, if a recipient has not received a high school diploma or General Equivalency Degree, and
- k. child care for other STARS recipients. The recipient must meet training and licensing requirements for child care providers as required by the Oklahoma Child Care Facilities Licensing Act;

5. Single, custodial parents with a child up to one (1) year of age may be exempt from work activities for a lifetime total exemption of twelve (12) months;
6. In order to receive assistance, unmarried teen parents of a minor child at least twelve (12) weeks of age must participate in educational activities or work activities approved by the state;
7. For single-parent families, except for teen parents, educational activities, other than vocational-technical training, do not count toward meeting the required twenty (20) hours

of work activity. For two-parent families, educational activities, except vocational-technical training, do not count toward meeting the required thirty-five (35) hours of work activity;

8. A teen parent must live at home or in an approved, adult-supervised setting as specified in Section 230.55 of this title to receive TANF assistance;

9. A recipient must comply with immunization requirements established pursuant to the TANF program;

10. A recipient shall be subject to the increment in benefits for additional children established by Section 230.58 of this title;

11. The following recipient resources are exempt from resource determination criteria:

a. an automobile with an equity allowance of not more than Five Thousand Dollars (\$5,000.00) pursuant to Section 230.53 of this title,

b. individual development accounts established pursuant to the Family Savings Initiative Act, or individual development accounts established prior to November 1, 1998, pursuant to the provisions of Section 230.54 of this title in an amount not to exceed Two Thousand Dollars (\$2,000.00),

c. the equity value of funeral arrangements owned by a recipient that does not exceed the limitation specified by Section 165 of this title, and

d. earned income disregards not to exceed One Hundred Twenty Dollars (\$120.00) and one-half (1/2) of the remainder of the earned income;

12. An applicant who applies and is otherwise eligible to receive TANF benefits but who has resided in this state less than twelve (12) months shall be subject to Section 230.57 of this title;

13. The recipient shall enter into a personal responsibility agreement with the Department for receipt of assistance pursuant to Section 230.65 of this title;

14. The Department shall, beginning November 1, 2012, screen all adult applicants for TANF to determine if they are engaged in the illegal use of a controlled substance or substances. If the Department has made a determination that the applicant is engaged in the illegal use of a controlled substance or substances, the applicant's request for TANF cash benefits shall be denied. The Commission for Human Services shall adopt rules to implement the requirements of this paragraph consistent with the following:

- a. the Department shall create a controlled substance screening process to be administered at the time of application. The process shall, at a minimum, include a Substance Abuse Subtle Screening Inventory (SASSI) or other similar screening methods. If necessary to establish a reasonable expectation of certainty, the Department is authorized to use further screening methods, which may include, but are not limited to, a clinical interview, consideration of the Department's history with the applicant, and an Addictions Severity Index (ASI). If the Department has reasonable cause to believe that the applicant is engaged in the illegal use of a controlled substance or substances, the Department is authorized, though not required, to request administration of a chemical drug test, such as urinalysis. The cost of all such initial screenings shall not be borne by the applicant,
- b. if at any time during the controlled substance screening process, the applicant refuses to participate, that refusal shall lead to a denial of TANF benefits,
- c. if the Department, as the result of a controlled substance screening process, has determined that the applicant is engaged in the illegal use of a controlled substance or substances, the applicant's request for TANF cash benefits shall be denied, subject to the following:
  - (1) if there has not already been a chemical drug test administered as part of the controlled substance screening process, the applicant may submit proof of a negative chemical drug test from a state certified laboratory to challenge the Department's finding that the applicant is engaged in the illegal use of a controlled substance or substances. Proof of the chemical drug test must be submitted to the Department no later than the tenth calendar day following denial. If denial is communicated by mail, the ten (10) day window begins on the day after the date of mailing of the denial notice to the applicant's last-known address. The denial notice is considered to be mailed on the date that appears on the notice, unless otherwise indicated by the facts,
  - (2) if denied due to the provisions of this subparagraph, an applicant shall not be approved until one (1) year has passed since the date of denial,
    - (a) if the applicant is denied due to the provisions of this paragraph, the Department shall provide a list of substance abuse treatment programs to the denied applicant,
    - (b) if an applicant has successfully complied with a recommended substance abuse treatment program after the date of denial, the applicant may be approved for cash benefits after six (6) months have passed since the date of denial, rather than the required one (1) year, and

(3) if an applicant has been denied TANF cash benefits two times due to the provisions of this subparagraph, the applicant shall be ineligible for TANF benefits for a period of three (3) years from the date of the second denial,

d. child-only cases and minor parents under eighteen (18) years of age are not subject to the provisions of this paragraph, and

e. in cases where the application for TANF benefits is not for child-only benefits, but there is not a parent who has been deemed eligible for cash benefits under the provisions of this paragraph, any cash benefits for which the dependent children of the family are still eligible shall not be affected and may be received and administered by an appropriate third party approved by the Department for the benefit of the members of the household;

15. a. As a condition of participating in the STARS, all recipients are deemed to have given authorization for the release of any and all information necessary to allow all state and federal agencies to meet the program needs of the recipient.

b. The recipient shall be provided a release form to sign in order to obtain the required information. Failure to sign the release form may result in case closure; and

16. The recipient shall comply with all other conditions and requirements of the STARS, and rules of the Commission promulgated pursuant thereto.

B. 1. Agencies of this state involved in providing services to recipients pursuant to the STARS shall exchange information as necessary for each agency to accomplish objectives and fulfill obligations created or imposed by the STARS and rules promulgated pursuant thereto.

2. Information received pursuant to the STARS shall be maintained by the applicable agency and, except as otherwise provided by this subsection, shall be disclosed only in accordance with any confidentiality provisions applicable to the agency originating the information.

3. The various agencies of the state shall execute operating agreements to facilitate information exchanges pursuant to the STARS.

C. In implementing the TANF program, the Department shall:

1. Provide assistance to aliens pursuant to Section 230.73 of this title;

2. Provide for the closure of the TANF case when the adult recipient refuses to cooperate with agreed upon work activities or other case requirements pursuant to the TANF program;
3. Provide for the sanctioning of parents who do not require their minor children to attend school; and
4. Deny temporary assistance to fugitive felons.

D. In order to ensure that the needy citizens of this state are receiving necessary benefits, the Department shall maintain a listing of all recipients receiving public assistance. The listing shall reflect each recipient's income, social security number, and the programs in which the recipient is participating including, but not limited to, TANF, food stamps, child care, and medical assistance.

E. The Department is hereby authorized to establish a grant diversion program and emergency assistance services.

Added by Laws 1997, c. 414, § 3, eff. Sept. 1, 1997. Amended by Laws 1998, c. 429, § 12, eff. Nov. 1, 1998; Laws 1999, c. 1, § 16, emerg. eff. Feb. 24, 1999; Laws 2001, c. 415, § 18, emerg. eff. June 5, 2001; Laws 2012, c. 263, § 1, eff. Nov. 1, 2012.

NOTE: Laws 1998, c. 133, § 1 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999.

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# **2022 Oklahoma Statutes**

## **Title 56. Poor Persons**

### **§56-238. Payment of public assistance creating debt to Department.**

**Universal Citation:** 56 OK Stat § 238 (2022)

Any payment of public assistance money by the Department of Human Services, hereinafter referred to as "Department," to or for the benefit of any dependent child or children or a child in the custody of the Department creates a debt due and owing to the State of Oklahoma by the natural or adoptive parent or parents who are responsible for support of such child or children in an amount equal to the amount of public assistance money so paid.

Provided, that any debt under this section shall not be incurred by nor at any time be collected from a parent or other person who is the recipient of public assistance monies for the benefit of minor dependent children for the period such person or persons are in such status.

Provided further, that where there has been a court order, the debt shall be limited to the amount provided for by said order. The Department shall have the right to petition the appropriate court for modification of a court order on the same grounds as a party to said cause. The Department shall be subrogated to the right of said child or children to prosecute or maintain any support action or execute any administrative remedy existing under the laws of the State of Oklahoma to obtain reimbursement of money thus expended.

Added by Laws 1977, c. 173, § 1, emerg. eff. June 3, 1977. Amended by Laws 1990, c. 302, § 14, eff. Sept. 1, 1990.

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# Library: Policy

340:25-1-1.1. Definitions

Revised 9-15-23

The following words and terms, when used in this Chapter, shall have the following meanings unless the context clearly indicates otherwise:

**"Address of record"** or **"AOR"** means an address for a party or a custodial person (CP) in the Central Case Registry of Child Support Services (CSS) used for service of process in support, custody, and visitation actions. An AOR may be different from the party's or CP's physical address.

**"Alleged father"** means *a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined* per Section 7700-102 of Title 10 of the Oklahoma Statutes (10 O.S. § 7700-102).

**"Alternative health coverage"** means health care services other than health insurance including, but not limited to, Indian Health Services (IHS) or Defense Eligibility Enrollment Reporting System (DEERS) available to either parent under which medical services could be provided to the dependent child(ren).

**"Annual notice"** means the yearly notice provided for in 56 O.S. § 237A to notify the noncustodial parent (NCP) and CP of the amount due, actions that may be taken to enforce the child support obligation, actions required of the NCP and CP, and other related information and instructions.

**"Applicant"** means the individual who requests child support services or is referred by another agency or program for child support services.

**"Arrears," "arrearage," or "past-due support"** means the total amount of unpaid support obligations accrued under a support order. Refer to "delinquency" in this Section.

**"Assignment"** means any transfer of rights to support to the state of Oklahoma under Sections 608 and 671 of Title 42 of the United States Code (42 U.S.C. §§ 608 and 671) or any transfer of rights to medical support and to payment of medical care from any third party under Section 433.146 of Title 42 of the Code of Federal Regulations (42 C.F.R. § 433.146).

**"Authorized representative"** means a person designated by a CP, NCP, or biological parent per Oklahoma Administrative Code (OAC) 340:25-1-3.1.

**"Biological parent"** means the natural parent of a child.

**"Case"** means the relationship of a particular group of people bound by legal rights and duties for the support of a child(ren) who is receiving or received child support services and all records and actions associated with the group.

**"Cash medical support"** means *an amount ordered to be paid toward the cost of health coverage provided by a public entity or by a person other than the parents through employment or otherwise* per 43 O.S. § 118F.

**"Central Case Registry"** or **"CCR"** means Oklahoma's repository for Part D of Subchapter IV of Chapter 7 of Title 42 of the United States Code (Title IV-D) cases and child support orders established or modified in Oklahoma after October 1, 1998. It includes, but is not limited to, information required to be transmitted to the Federal Case Registry per 42 U.S.C. § 654a. CSS maintains the CCR per 43 O.S. § 112A.

**"Centralized Support Registry"** means a repository CSS maintains to receive, allocate, and distribute support payments, including child support, spousal support when paid in conjunction with child support, and related support payments per 43 O.S. § 413. It serves as Oklahoma's State Disbursement Unit per 42 U.S.C. § 654b. The Centralized Support Registry processes payments per 43 O.S. § 413:

(A) *in all cases in which child support services are being provided under the state child support plan as provided under Section 237 of Title 56 of the Oklahoma Statutes until all monies owed for child support are no longer owed;*

(B) *in all other cases in which support is being paid by income withholding; and*

(C) when a court orders payments to be made through the Centralized Support Registry.

**"Child support order"** means an obligation addressing monetary support, cash medical support, medical support for the child(ren), and support arrearage and arrearage payments, when any.

**"CSED"** means Oklahoma Human Services (OKDHS) Child Support Services and was replaced by Child Support Services.

**"CSS"** means Child Support Services. CSS includes a central state office, district offices, and other offices that may be administered through contract or cooperative agreements with district attorneys, community action program agencies, and others. CSS includes all these offices, employees, and agents. CSS was formerly known as CSED and Oklahoma Child Support Services (OCSS).

**"Current child support"** means the base child support obligation and the proportional share of health insurance costs, fixed medical costs, transportation expenses, and annualized child care costs. Current child support does not include cash medical support.

**"Custodial person," "custodian," or "CP"** means the person who has primary physical custody of the child(ren).

**"Delinquency"** means *any payment under an order for support which becomes due and remains unpaid* per 12 O.S. §1170 and 56 O.S. § 237.7.

**"DHS"** means Oklahoma Human Services, also known as OKDHS, which is the state agency designated to administer the state of Oklahoma child support program.

**"District office"** means a child support services office or duty station OKDHS operates or through contract or agreement with OKDHS to serve a specific area of the state.

**"Family violence"** means domestic abuse or child abuse, including physical or emotional harm.

**"Fixed medical"** means fixed periodic payments for ongoing medical costs not paid or reimbursed by insurance, or included in a cash medical support order.

**"Full-service case"** means a child support case for which CSS provides all appropriate Title IV-D services per OAC 340:25-1-1.2.

**"Health insurance"** means insurance coverage that provides routine and major medical expenses including, but not limited to: preventive care, office visits, hospitalization, and medication coverage that may be provided through a fee for service, health maintenance organization, preferred provider organization, or other private or public organization, other than SoonerCare (Medicaid).

**"High-volume administrative enforcement cases in interstate actions"** means the request of another state, the identification of by a state, through automated data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe

child support in other states, and the seizure of such assets by the state through levy or other appropriate processes per 42 U.S.C. § 666.

**"Intergovernmental"** means a case referred by an initiating agency to a responding agency for services when the dependent child(ren) and the NCP lives or works in different jurisdictions.

**"Income assignment"** means an assignment, by operation of law or by court or administrative order of a portion of the monies, income, or periodic earnings due and owing by the NCP to the person entitled to the support or to another person designated by the support order or assignment, per 12 O.S. § 1170 and 56 O.S. § 237.7. An income assignment may be for payment of current support, arrearages, or both. The terms "income assignment" and "income withholding" may be used interchangeably.

**"Interstate case"** means a case in which at least one party resides in another state or country or a support order was entered in another state or country.

**"Intrastate case"** means a case existing or occurring within the boundaries of a single state.

**"IV-A"** means Title IV, Part A, of the Social Security Act, codified in 42 U.S.C. Part A of Subchapter IV of Chapter 7, covering the federal-state Temporary Assistance for Needy Families (TANF) Program.

**"IV-B"** means Title IV, Part B, of the Social Security Act, codified in 42 U.S.C. Part B of Subchapter IV of Chapter 7, covering child welfare services.

**"IV-D"** means Title IV, Part D, of the Social Security Act, codified in 42 U.S.C. Part D of Subchapter IV of Chapter 7, generally relating to child support.

**"IV-D case"** means a child support case receiving Title IV-D services.

**"IV-D programs and services"** means programs and services under Title IV, Part D, of the Social Security Act, codified in 42 U.S.C. Part D of Subchapter IV of Chapter 7.

**"IV-E"** means Title IV, Part E, of the Social Security Act, codified in 42 U.S.C. Part E of Subchapter IV of Chapter 7, covering foster care.

**"IV-E foster care"** means federal and state funded placement of a child(ren) removed from a home whose family members meet the eligibility criteria for federal participation for Title IV-E foster care.

**"Medicaid"** means medical assistance provided under a state plan approved under Title XIX of the Social Security Act, codified in 42 U.S.C. Subchapter XIX of Chapter 7 including SoonerCare, State Children's Health Insurance Program (S-CHIP), and Insure Oklahoma. In Oklahoma, the Oklahoma Health Care Authority (OHCA) provides Medicaid services for eligible adults and children.

**"Medical enforcement only case"** or **"MEO case"** means a child support case for which CSS provides only Title IV-D services related to securing and enforcing medical support to non-TANF SoonerCare (Medicaid) recipients.

**"Medical support"** means health insurance, alternative health coverage, cash medical support, or a combination of these for the benefit of a minor child(ren).

**"Member of military service"** or **"servicemember"** means any member of the uniformed service on active duty including the Army, Navy, Air Force, Marine Corps, and Coast Guard. Also included are members of the National Guard called to active service, certain members of the Public Health Service, National Oceanic and Atmospheric Administration, Reserves when ordered to report for active military duty, and United States citizens serving with the military of other countries when that service is similar to military service per 50 U.S.C. §§ 3911, 3914, and 3917. A servicemember may be an NCP or a CP.

**"Non-cash support"** means support given to a family in the nature of goods or services that can be assigned a specific dollar value in lieu of monetary payment.

**"Noncustodial parent"** or **"NCP"** means a parent who does not have primary physical custody of the child(ren).

**"Non-IV-D case"** means a private child support case not receiving Title IV-D services.

**"Non-IV-E foster care"** means state funded placement of a child(ren) removed from a home where the child(ren) does not meet federal Title IV-E participation requirements.

**"Non-TANF SoonerCare (Medicaid)"** means a case in which a parent or CP receives Title XIX Medicaid services for the minor child(ren).

**"Notice of Income Assignment"** means the tool used to affect the income withholding process. This document is used to notify employers and other withholders to deduct child support payments from an NCP's income and to send the payments to Oklahoma's Centralized Support Registry for distribution. The terms "income withholding" and "income assignment" may be used interchangeably.

**"OAH"** means the OKDHS Legal Office of Administrative Hearings: Child Support (OAH) that employs and assigns administrative law judges to conduct child support administrative hearings.

**"Obligee"** or **"person entitled"** means, per 56 O.S. § 237.7:

- (A) *a person to whom a support debt or support obligation is owed;*
- (B) *the Department of Human Services or a public agency of another state that has the right to receive current or accrued support payments or that is providing support enforcement services; or*
- (C) *a person designated in a support order or as otherwise specified by the court.*

**"Obligor"** means the person who is required to make payments under an order for support per 12 O.S. § 1170 and 56 O.S. § 237.7.

**"OCSS"** means CSS.

**"Offset"** means an amount of money intercepted from an NCP's state or federal tax refund or from an administrative payment, such as federal retirement benefits to satisfy a child support debt.

**"OKDHS"** means Oklahoma Human Services. OKDHS is the state agency designated to administer the child support program for the state of Oklahoma.

**"Oklahoma Health Care Authority (OHCA)"** means the Oklahoma agency that administers the Medicaid and SoonerCare programs for adults and children who meet eligibility requirements. OHCA operates under the authority of Title XIX of the Social Security Act and 63 O.S. §§ 5003 et seq.

**"Overpayment"** means a CSS payment to a CP, NCP, or other entity to which the entity or person is not entitled.

**"Participant in a case"** means a child, parent, alleged father, or CP associated with a child support services case.

**"Past support"** means past-due support or support for a prior period. Refer to **"arrears"** in this Section.

**"Payment plan"** means and includes but is not limited to, a plan approved by the court or the support enforcement entity provides sufficient security to ensure compliance with a support order, incorporates voluntary or involuntary income assignment, or a similar plan for periodic payment of past-due support and, when applicable, current and future support per 43 O.S. § 139.1 and 56 O.S. § 237.7. A payment plan is intended to incrementally reduce arrears.

**"Payor"** means *any person or entity paying monies, income, or earnings to an obligor. In the case of a self-employed person, the "payor" and "obligor" may be the same person* per 12 O.S. § 1170 and 56 O.S. § 237.7.

**"Presumed father"** means *a man who, by operation of law per 10 O.S. § 7700-204, is recognized as the father of a child until that status is rebutted or confirmed in a judicial proceeding.*

**"Record"** means a written document or image stored in electronic or physical form.

**"Social Security Act"** means Public Law 74-271, codified in 42 U.S.C. Chapter 7 that established the Title IV-D program and other social services programs.

**"State's attorney"** means a lawyer employed in the child support program to represent the state in rendering services per the Social Security Act, codified in Title 42 U.S.C. Part D of Subchapter IV of Chapter 7.

**"Support"** means, per 56 O.S. § 237.7, all payments or other obligations due and owing to the CP or person entitled by the NCP under a support order, and may include, but is not limited to, child support, medical insurance or other health benefit plan premiums or payments, child care obligations, support alimony payments, and other obligations as specified in 43 O.S. §§ 118A through 119.

**"Support for a prior period"** means the amount of child support ordered under the child support guidelines in 43 O.S. §§ 118 through 119 in paternity orders and in TANF notice of support debt orders for past months when no child support order was in effect.

**"Support order"** means, per 43 O.S. § 601-101, a *judgment, decree, order or directive, whether temporary, final, or subject to modification, issued by a tribunal for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.*

**"TANF"** means Temporary Assistance for Needy Families. TANF replaces Aid to Families with

Dependent Children (AFDC).

**"Tribunal"** means, per 43 O.S. § 601-101, a court or administrative agency authorized to establish, enforce, modify support orders, or determine parentage.

**"UIFSA"** means the Uniform Interstate Family Support Act. In Oklahoma, UIFSA is codified at 43 O.S. §§ 601-100 through 601-903.

**"Unreimbursed public assistance"** means money paid as cash assistance from Title IV-A and Title IV-E programs that has not been recovered.

**"UPA"** means the Uniform Parentage Act. In Oklahoma, UPA is codified in 10 O.S. §§ 7700-101 through 7700-902.

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# 2022 Oklahoma Statutes

## Title 43. Marriage and Family

### §43-112. Care and custody of children.

**Universal Citation:** 43 OK Stat § 112 (2022)

A. A petition or cross-petition for a divorce, legal separation, or annulment must state whether or not the parties have minor children of the marriage. If there are minor children of the marriage, the court:

1. Shall make provision for guardianship, custody, medical care, support and education of the children;
2. Unless not in the best interests of the children, may provide for the visitation of the noncustodial parent with any of the children of the noncustodial parent; and
3. May modify or change any order whenever circumstances render the change proper either before or after final judgment in the action; provided, that the amount of the periodic child support payment shall not be modified retroactively or payment of all or a portion of the past due amount waived, except by mutual agreement of the obligor and obligee, or if the obligee has assigned child support rights to the Department of Human Services or other entity, by agreement of the Department or other entity. Unless the parties agree to the contrary, a completed child support computation form provided for in Section 120 of this title shall be required to be filed with the child support order.

The social security numbers of both parents and the child shall be included on the child support order summary form provided for in Section 120 of this title, which shall be submitted to the Central Case Registry as provided for in Section 112A of this title with all child support or paternity orders.

B. In any action in which there are minor unmarried children in awarding or modifying the custody of the child or in appointing a general guardian for the child, the court shall be guided by the provisions of Section 112.5 of this title and shall consider what appears to be in the best interests of the child.

C. 1. When it is in the best interests of a minor unmarried child, the court shall:

- a. assure children of frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, and
- b. encourage parents to share the rights and responsibilities of child rearing in order to effect this policy.

2. There shall be neither a legal preference nor a presumption for or against joint legal custody, joint physical custody, or sole custody.

3. When in the best interests of the child, custody shall be awarded in a way which assures the frequent and continuing contact of the child with both parents. When awarding custody to either parent, the court:

- a. shall consider, among other facts, which parent is more likely to allow the child or children frequent and continuing contact with the noncustodial parent, and
- b. shall not prefer a parent as a custodian of the child because of the gender of that parent.

4. In any action, there shall be neither a legal preference or a presumption for or against private or public school or home-schooling in awarding the custody of a child, or in appointing a general guardian for the child.

5. Notwithstanding any custody determination made pursuant to the Oklahoma Children's Code, when a parent of a child is required to be separated from a child due to military service, the court shall not enter a final order modifying an existing custody order until such time as the parent has completed the term of duty requiring separation. For purposes of this paragraph:

- a. in the case of a parent who is a member of the Army, Navy, Air Force, Marine Corps or Coast Guard, the term "military service" means a combat deployment, contingency operation, or natural disaster requiring the use of orders that do not permit any family member to accompany the member,
- b. in the case of a parent who is a member of the National Guard, the term "military service" means service under a call to active service authorized by the

President of the United States or the Secretary of Defense for a period of more than thirty (30) consecutive days under 32 U.S.C. 502(f) for purposes of responding to a national emergency declared by the President and supported by federal funds.

“Military service” shall include any period during which a member is absent from duty on account of sickness, wounds, leave or other lawful cause, and

c. the court may enter a temporary custody or visitation order pursuant to the requirements of the Deployed Parents Custody and Visitation Act.

6. In making an order for custody, the court shall require compliance with Section 112.3 of this title.

D. 1. Except for good cause shown, a pattern of failure to allow court-ordered visitation may be determined to be contrary to the best interests of the child and as such may be grounds for modification of the child custody order.

2. For any action brought pursuant to the provisions of this section which the court determines to be contrary to the best interests of the child, the prevailing party shall be entitled to recover court costs, attorney fees and any other reasonable costs and expenses incurred with the action.

E. Except as otherwise provided by Section 112.1A of this title, any child shall be entitled to support by the parents until the child reaches eighteen (18) years of age. If a child is regularly enrolled in and attending high school, as set forth in Section 11-103.6 of Title 70 of the Oklahoma Statutes, other means of high school education, or an alternative high school education program as a full-time student, the child shall be entitled to support by the parents until the child graduates from high school or until the age of twenty (20) years, whichever occurs first. Full-time attendance shall include regularly scheduled breaks from the school year. No hearing or further order is required to extend support pursuant to this subsection after the child reaches the age of eighteen (18) years.

F. In any case in which provision is made for the custody or support of a minor child or enforcement of such order and before hearing the matter or signing any orders, the court shall inquire whether public assistance money or medical support has been provided by the Department of Human Services, hereafter referred to as the Department, for the benefit of each child. If public assistance money, medical support, or child support services under the state child support plan as provided in Section 237 of Title 56 of the Oklahoma Statutes have been provided for the benefit of the child, the Department shall be a necessary party for the adjudication of the debt due to the State of Oklahoma, as defined in Section 238 of Title 56 of the Oklahoma Statutes, and for the adjudication of paternity, child support, and

medical insurance coverage for the minor children in accordance with federal regulations. When an action is filed, the petitioner shall give the Department notice of the action according to Section 2004 of Title 12 of the Oklahoma Statutes. The Department shall not be required to intervene in the action to have standing to appear and participate in the action. When the Department is a necessary party to the action, any orders concerning paternity, child support, medical support, or the debt due to the State of Oklahoma shall be approved and signed by the Department.

G. In any case in which a child support order or custody order or both is entered, enforced or modified, the court may make a determination of the arrearages of child support.

R.L. 1910, § 4968. Amended by Laws 1955, p. 142, § 1; Laws 1968, c. 226, § 1; Laws 1969, c. 334, § 1, emerg. eff. May 8, 1969; Laws 1973, c. 188, § 1; Laws 1974, c. 101, § 1, emerg. eff. April 30, 1974; Laws 1979, c. 93, § 1, eff. Oct. 1, 1979; Laws 1985, c. 297, § 16, operative Oct. 1, 1985; Laws 1987, c. 230, § 14, eff. Oct. 1, 1987. Renumbered from § 1277 of Title 12 by Laws 1989, c. 333, § 1, eff. Nov. 1, 1989. Amended by Laws 1990, c. 171, § 2, operative July 1, 1990; Laws 1990, c. 309, § 11, eff. Sept. 1, 1990; Laws 1993, c. 307, § 1, emerg. eff. June 7, 1993; Laws 1994, c. 356, § 12, eff. Sept. 1, 1994; Laws 1996, c. 131, § 10, eff. Jan. 1, 1997; Laws 1997, c. 403, § 10, eff. Nov. 1, 1997; Laws 1998, c. 5, § 13, emerg. eff. March 4, 1998; Laws 1998, c. 323, § 7, eff. Oct. 1, 1998; Laws 1999, c. 301, § 2, eff. Nov. 1, 1999; Laws 2000, c. 384, § 5, eff. Nov. 1, 2000; Laws 2002, c. 400, § 7, eff. Nov. 1, 2002; Laws 2003, c. 3, § 22, emerg. eff. March 19, 2003; Laws 2006, c. 127, § 1, eff. Nov. 1, 2006; Laws 2007, c. 1, § 23, emerg. eff. Feb. 22, 2007; Laws 2007, c. 34, § 1, emerg. eff. April 18, 2007; Laws 2009, c. 234, § 137, emerg. eff. May 21, 2009; Laws 2010, c. 358, § 10, emerg. eff. June 7, 2010; Laws 2011, c. 354, § 1, emerg. eff. May 26, 2011.

NOTE: Laws 1997, c. 402, § 10 repealed by Laws 1998, c. 5, § 29, emerg. eff. March 4, 1998. Laws 2002, c. 314, § 2 repealed by Laws 2003, c. 3, § 23, emerg. eff. March 19, 2003. Laws 2002, c. 445, § 18 repealed by Laws 2003, c. 3, § 24, emerg. eff. March 19, 2003. Laws 2006, c. 74, § 1 repealed by Laws 2007, c. 1, § 24, emerg. eff. Feb. 22, 2007.

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# **2022 Oklahoma Statutes**

## **Title 43. Marriage and Family**

### **§43-118F. Medical support order for health care coverage.**

**Universal Citation:** 43 OK Stat § 118F (2022)

A. The court shall enter a medical support order for health care coverage in any case in which an ongoing child support order is entered or modified. Medical support, for the purpose of this section, is defined as health care coverage, cash medical support, or a combination of both. For the purposes of this section:

1. "Health care coverage" includes:

- a. fee for service,
- b. health maintenance organization,
- c. preferred provider organization,
- d. other types of private health insurance,
- e. government medical assistance program or health plan,
- f. Indian Health Services, and
- g. Defense Eligibility Enrollment Reporting System (DEERS).

2. "Cash medical support" means:

- a. an amount ordered to be paid toward the cost of health care coverage provided by a public entity, parent, or by a person other than the parents, or
- b. fixed periodic payments for ongoing medical costs.

B. In entering a temporary order, the court shall order that any health care coverage in effect for the child continue in effect pending the entering of a final order, unless the court finds that the existing health care coverage is not reasonable in cost or is not accessible as defined in subsection D of this section. If there is no health care coverage in effect for the child or if the health care coverage in effect is not available at a reasonable cost or is not accessible, the court shall order health care coverage for the child as provided in this section, unless the court makes a written finding that good cause exists not to enter a temporary medical support order.

C. On entering a final order, the court shall:

1. Make specific orders with respect to the manner in which health care coverage is to be provided for the child; and
2. Require the parent ordered to provide health care coverage for the child as provided under this section to produce evidence to the court's satisfaction that the parent has applied for or secured health care coverage or has otherwise taken necessary action to provide for health care coverage for the child, as ordered by the court.

D. When the court enters a medical support order, the medical support order shall be reasonable in cost and accessible.

1. "Reasonable in cost" means that the pro rata share of the actual premium cost for the child or children paid by the insured does not exceed five percent (5%) of the gross income of the responsible parent. To calculate the actual premium cost of the health insurance, the court shall:

- a. deduct from the total insurance premium the cost of coverage for the parent and any other adults in the household,
- b. divide the remainder by the number of dependent children being covered, and
- c. multiply the amount per child by the number of children in the child support case under consideration.

2. "Accessible health care coverage" means that:

- a. there are available providers appropriate to meet the primary individual health care needs of the children no more than sixty (60) miles one way from the primary residence of the children.
- b. If a parent has available health care coverage which includes an option that would be accessible to the child, but the parent has not currently enrolled in that

option, the court may require the parent to change existing coverage to an option that is accessible to the child.

3. If the parties agree or the court finds good cause exists, the court may order health care coverage in excess of the five percent (5%) cost standard or the sixty-mile distance standard.

E. The court shall consider the cost and quality of health care coverage available to the parties. If both parents have health care coverage available, the court shall give priority to the preference of the custodial person, unless it is not in the best interest of the child.

F. Cash medical support.

1. The responsible parent shall be ordered to pay cash medical support when:

- a. there is no health care plan available for the child,
- b. the only health care plan available for the child is a governmental medical assistance program or health plan, or
- c. a party shows reasonable evidence of domestic violence or child abuse, such that an order for health care coverage is inappropriate and the disclosure of information could be harmful to a party, custodian, or child.

2. The cash medical support order shall not exceed the pro rata share of the actual monthly medical expenses paid for the child, or five percent (5%) of the gross monthly income of the obligor, whichever is less.

3. a. In determining the actual monthly medical costs for the child, the court shall determine:

(1) for children who are participating in a government medical assistance program or health plan, an amount consistent with rules promulgated by the Oklahoma Health Care Authority determining the rates established for the cost of providing medical care through a government medical assistance program or health plan, or

(2) for children who are not participating in a government medical assistance program or health plan, an amount consistent with rules promulgated by the Department of Human Services determining the average monthly cost of health care for uninsured children.

b. The court may also consider:

(1) proof of past medical expenses incurred by either parent for the child,

- (2) the current state of the health of the child, and
- (3) any medical conditions of the child that would result in an increased monthly medical cost.

G. An order requiring the payment of cash medical support under subsection F of this section shall allow the obligor to terminate payment of the cash medical support if:

1. Accessible health care coverage for the child becomes available to the obligor at a reasonable cost; and

2. The obligor:

- a. enrolls the child in the insurance plan, and
- b. provides the obligee and, in a Title IV-D case, the Title IV-D agency, the information required under paragraph 2 of subsection C of this section.

In Title IV-D cases, termination and reinstatement of cash medical support shall be according to rules promulgated by the Department of Human Services.

H. 1. The actual health care premium for the child shall be allocated between the parents in the same proportion as their adjusted gross income and shall be added to the base child support obligation.

2. If the obligor pays the health care premium, the obligor shall receive credit against the base child support obligation for the allocated share of the health care premium for which the obligee is responsible.

3. If the obligee pays the health care premium, the obligor shall pay the allocated share of the health care premium to the obligee in addition to the base child support obligation.

4. The parent providing the health care coverage shall furnish to the other parent and to the Child Support Enforcement Division of the Department of Human Services, if services are being provided pursuant to Title IV, Part D of the Social Security Act, 42 U.S.C. Section 601 et seq., with timely written documentation of any change in the amount of the health care cost premium, carrier, or benefits within thirty (30) days of the date of the change. Upon receiving timely notification of the change of cost, the other parent is responsible for his or her percentage share of the changed cost of the health care coverage.

5. If the court finds that the obligor has underpaid child support due to changes in the cost of health care coverage, the amount of underpayment may be established as a judgment by the court and enforced in the same manner as any other delinquent child support

judgment. If the court finds that the obligor has overpaid due to changes in health care coverage cost, the overpayment shall be satisfied:

- a. by offset against any past-due child support owed to the obligee, or
- b. by adjustment to the future child support amount over a thirty-six-month period, unless the court finds that a thirty-six month period is not in the best interest of the child.

I. Reasonable and necessary medical, dental, orthodontic, optometric, psychological, or any other physical or mental health expenses of the child incurred by either parent and not paid or reimbursed by insurance or included in a cash medical support order pursuant to subsection F of this section shall be allocated in the same proportion as the adjusted gross income of the parents, unless the parents agree to a different allocation of expenses and the court finds such allocation is in the best interest of the child. If reimbursement is required for a health care expense not included in the current monthly child support obligation, the parent who incurs the expense shall provide the other parent with proof of the expense within forty-five (45) days of receiving the Explanation of Benefits from the insurance provider or other proof of the expense if the expense is not covered by insurance. The parent responsible for reimbursement shall pay his or her portion of the expense within forty-five (45) days of receipt of documentation of the expense.

J. In addition to any other sanctions ordered by the court, a parent incurring uninsured dependent health expenses or increased insurance premiums may be denied the right to receive credit or reimbursement for the expense or increased premium if that parent fails to comply with subsections H and I of this section.

K. The parent desiring an adjustment to the ongoing child support order due to a change in the amount of dependent health insurance premium shall initiate a review of the order in accordance with Section 118I of this title.

Added by Laws 2008, c. 407, § 7, eff. July 1, 2009. Amended by Laws 2018, c. 87, § 1, eff. Nov. 1, 2018.

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# **2022 Oklahoma Statutes**

## **Title 43. Marriage and Family**

### **§43-118I. Modification of child support orders.**

**Universal Citation:** 43 OK Stat § 118I (2022)

A. 1. Child support orders may be modified upon a material change in circumstances which includes, but is not limited to, an increase or decrease in the needs of the child, an increase or decrease in the income of the parents, incarceration of a parent for a time period of more than one hundred eighty (180) consecutive days, changes in actual annualized child care expenses, changes in the cost of medical or dental insurance or when one of the children in the child support order reaches the age of majority or otherwise ceases to be entitled to support pursuant to the support order. The court shall apply the principles of equity in modifying any child support order due to changes in the circumstances of either party as it relates to the best interests of the children.

2. Modification of the Child Support Guideline Schedule shall not alone be a material change in circumstances for child support orders.

3. An order of modification shall be effective on the first day of the month following the date the motion to modify was filed, unless the parties agree to another date or the court makes a specific finding of fact that the material change of circumstance did not occur until a later date.

B. 1. A child support order shall not be modified retroactively regardless of whether support was ordered in a temporary order, a decree of divorce, an order establishing paternity, modification of an order of support, or other action to establish or to enforce support.

2. All final orders shall state whether past-due support and interest have accrued pursuant to any temporary order and the amount due, if any; however, failure to state a past-due amount shall not bar collection of that amount after entry of the final support order.

C. The amount of a child support order shall not be construed to be an amount per child unless specified by the district or administrative court in the order. A child reaching the age of majority or otherwise ceasing to be entitled to support pursuant to the support order shall constitute a material change in circumstances but shall not automatically serve to modify the order. When the last child of the parents ceases to be entitled to support, the child support obligation is automatically terminated as to prospective child support only.

D. 1. When a child support order is entered or modified, the parents may agree, or the district or administrative court may require a periodic exchange of information for an informal review and adjustment process.

2. When an existing child support order does not contain a provision which requires an informal review and adjustment process, either parent may request the other parent to provide the information necessary for the informal review and adjustment process.

Information shall be provided to the requesting parent within forty-five (45) days of the request.

3. Requested information may include verification of income, proof and cost of medical insurance of the children, and current and projected child care costs. If shared parenting time has been awarded by the court, documentation of past and prospective overnight visits shall be exchanged.

4. Exchange of requested information may occur once a year or less often, by regular mail.

5. a. If the parents agree to a modification of a child support order, their agreement shall be in writing using standard modification forms and the child support computation form provided for in Section 120 of this title.

b. The standard modification forms and the standard child support computation form shall be submitted to the district or administrative court. Either court shall review the modification forms to confirm that the child support obligation complies with the child support guidelines or, if agreed to by the parties, the court may approve a deviation from the child support guidelines as provided in subsection B of Section 118H of this title. If the court approves the modification forms, they shall be filed with the court.

E. After November 1, 2021, there shall be a rebuttable presumption that an obligor who is incarcerated for a period of one hundred eighty (180) or more consecutive days is unable to pay child support.

1. The obligor's child support obligation shall be abated without court action effective the first day of the month following the date of entry into the correctional facility or jail and shall not accrue for the duration of the incarceration unless the presumption is rebutted by a showing of means to pay as provided in Section 118B of this title.
2. Upon release from incarceration, the monthly child support obligation shall revert to the pre-incarceration order amount beginning the first day of the month following a lapse of ninety (90) calendar days after release from incarceration.
3. The abatement of a monthly support obligation under this subsection shall not affect any past-due support that has accrued prior to the abatement of the obligation.
4. If any of the crimes for which the obligor is incarcerated are a result of indirect contempt of court for failure to pay child support, the crime of omission to provide child support or for any offense for which the obligee's dependent child or the obligee was a victim, the abatement shall not be presumed and the child support obligation shall continue to accrue.

Added by Laws 2008, c. 407, § 10, eff. July 1, 2009. Amended by Laws 2016, c. 289, § 4, eff. Nov. 1, 2016; Laws 2021, c. 286, § 4, eff. Nov. 1, 2021.

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