

Enrolled
House Bill 2275

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CHAPTER

AN ACT

Relating to multiple child support judgments; creating new provisions; and amending ORS 25.091 and 416.448.

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

SECTION 1. (1) As used in this section:

(a) "Administrator" has the meaning given that term in ORS 25.010.

(b) "Child support judgment" has the meaning given that term in ORS 25.089.

(2) Notwithstanding the provisions of ORS 25.089, 25.091 and 416.448 to the contrary, the monetary support terms of a child support judgment originating under ORS 416.440 are terminated by the monetary support terms of a later-issued child support judgment of a court if:

(a) The two child support judgments involve the same obligor and child and the same period;

(b) The administrator was providing services under ORS 25.080;

(c) The later-issued child support judgment was entered before January 1, 2004;

(d) The administrator or a court gave the later-issued child support judgment precedence over the earlier-issued child support judgment originating under ORS 416.440; and

(e) All parties had an opportunity to challenge the amount of child support ordered in the later-issued child support judgment.

(3) Notwithstanding the provisions of ORS 25.091 (11) and 416.448 (7), for purposes of reconciling any monetary support arrears or credits under the two child support judgments described in subsection (2) of this section:

(a) The monetary support terms of the child support judgment originating under ORS 416.440 are deemed terminated on the date the later-issued child support judgment was entered as described in ORS 18.075; and

(b) Entry of the later-issued child support judgment does not affect any support payment arrearage or credit that has accrued under the earlier-issued child support judgment originating under ORS 416.440.

SECTION 2. ORS 25.091 is amended to read:

25.091. (1) As used in this section:

(a) "Child support judgment" has the meaning given that term in ORS 25.089.

(b) "Governing child support judgment" means a child support judgment issued in this state that addresses both monetary support and a health [insurance] benefit plan under ORS [25.255] **25.321**

to **25.343** and is entitled to exclusive prospective enforcement or modification with respect to any earlier child support judgment issued in this state.

(2) Notwithstanding any other provision of this section or ORS 25.089, when *[there exist]* two or more child support judgments **exist** involving the same obligor and child and one or more of the judgments was issued by a tribunal of another state, the court shall apply the provisions of ORS chapter 110 before enforcing or modifying a judgment under this section or ORS 25.089.

(3) When *[there exist]* two or more child support judgments **exist** involving the same obligor and child and the same period *[of time]*, any party to one or more of the child support judgments or the administrator, under ORS 416.448, may file a petition with the court for a governing child support judgment under this section. When a matter involving a child is before the court and the court finds that *[there exist]* two or more child support judgments **exist** involving the same obligor and child and the same period *[of time]*, the court on its own motion, and after notice to all affected parties, may determine the controlling terms of the child support judgments and issue a governing child support judgment under this section.

(4) When *[there exist]* two or more child support judgments **exist** involving the same obligor and child and the same period *[of time]*, and each judgment was issued in this state, there is a presumption that the terms of the last-issued child support judgment are the controlling terms and *[supersede]* **terminate** contrary terms of each earlier-issued child support judgment, except that:

(a) When the last-issued child support judgment is silent about monetary support for the benefit of the child, the monetary support terms of an earlier-issued child support judgment continue; and

(b) When the last-issued child support judgment is silent about a health *[insurance]* **benefit plan** under ORS *[25.255]* **25.321 to 25.343** for the benefit of a child, the health *[insurance]* **benefit plan** terms of an earlier-issued child support judgment continue.

(5) A party may rebut the presumption in subsection (4) of this section by showing that:

(a) The last-issued child support judgment should be set aside under the provisions of ORCP 71;

(b) The last-issued child support judgment was issued without prior notice to the issuing court, administrator or *[hearing officer]* **administrative law judge** that:

(A) There was pending in this state or any other jurisdiction any type of support proceeding involving the child; or

(B) There existed in this state or any other jurisdiction another child support judgment involving the child; or

(c) The last-issued child support judgment was issued after an earlier child support judgment and did not enforce, modify or set aside the earlier child support judgment in accordance **with** ORS 25.089.

(6) When a court finds that *[there exist]* two or more child support judgments **exist** involving the same obligor and child and the same period *[of time]*, and each child support judgment was issued in this state, the court shall set the matter for hearing to determine the controlling terms of the child support judgments. When the child support judgments were issued in different counties of this state, the court may cause the records from the original proceedings to be transmitted to the court in accordance with ORS 25.100.

(7) Following a review of each child support judgment and any other evidence admitted by the court:

(a) The court shall apply the presumption in subsection (4) of this section, unless the presumption is rebutted, and shall determine the controlling terms of the child support judgments; and

(b) Notwithstanding ORS 25.089 (3), the court shall issue a governing child support judgment addressing both monetary support and a health *[insurance]* **benefit plan** under ORS *[25.255]* **25.321 to 25.343** for the benefit of the child.

(8) The governing child support judgment must include:

(a) A reference to each child support judgment considered and a copy of the judgment;

(b) A determination of which terms regarding monetary support and a health *[insurance]* **benefit plan** under ORS *[25.255]* **25.321 to 25.343** are controlling and which child support judgment or judgments contain those terms;

(c) An affirmation, termination or modification of the terms regarding monetary support and a health *[insurance]* **benefit plan** under ORS *[25.255]* **25.321 to 25.343** in each of the child support judgments;

(d) Except as provided in subsection (9) of this section, a reconciliation of any monetary support arrears or credits *[for overpayments]* under all of the child support judgments; and

(e) The effective date of each controlling term and the **termination** date *[of the termination]* of each noncontrolling term in each of the child support judgments. **In determining these dates, the court may apply the following:**

(A) A controlling term is effective on the date specified in the child support judgment containing that term or, if no date is specified, on the date the child support judgment was entered as described in ORS 18.075.

(B) A noncontrolling term is terminated on the date the governing child support judgment is entered as described in ORS 18.075.

(9) The court may order the parties, in a separate proceeding under ORS 25.167 or *[in a proceeding under ORS]* 416.429, to reconcile any monetary support arrears or credits *[for overpayments]* under all of the child support judgments.

(10) When *[the court issues]* the governing child support judgment **is entered as described in ORS 18.075**, the noncontrolling terms of each earlier child support judgment regarding monetary support or a health *[insurance]* **benefit plan** under ORS *[25.255]* **25.321 to 25.343** are terminated. However, **subject to subsection (11) of this section**, the *[issuance]* **entry** of the governing child support judgment does not affect any support payment arrearage or any liability related to health *[insurance]* **benefit plan** coverage that has accrued under a child support judgment before the governing child support judgment is *[issued]* **entered**.

(11) For purposes of reconciling any monetary support arrears or credits under all of the child support judgments, amounts collected and credited for a particular period under one child support judgment must be credited against the amounts accruing or accrued for the same period under any other child support judgment.

[(11)] **(12)** Not sooner than 30 days and not later than 60 days after entry of the governing child support judgment, a party named by the court, or the petitioner if the court names no other party, shall file a certified copy of the governing child support judgment with each court or the administrator that issued an earlier child support judgment. A party who fails to file a certified copy of the governing child support judgment as required by this subsection is subject to monetary sanctions, including but not limited to attorney fees, costs and disbursements. A failure to file does not affect the validity or enforceability of the governing child support judgment.

[(12)] **(13)** This section applies to any judicial proceeding in which child support may be awarded or modified under this chapter or ORS chapter 107, 108, 109 or 416 or ORS 125.025, 419B.400, 419B.923, 419C.590 or 419C.610.

SECTION 3. ORS 416.448 is amended to read:

416.448. (1) As used in this section:

(a) "Child support judgment" has the meaning given that term in ORS 25.089.

(b) "Governing child support judgment" has the meaning given that term in ORS 25.091.

(2) Notwithstanding any other provision of this section or ORS 25.089, when *[there exist]* two or more child support judgments **exist** involving the same obligor and child, and when one or more of the judgments was issued by a tribunal of another state, the administrator shall apply the provisions of ORS chapter 110 before enforcing or modifying a child support judgment under this section or ORS 25.089.

(3) When the administrator finds that *[there exist]* two or more child support judgments **exist** involving the same obligor and child and the same period *[of time]*, and each child support judgment was issued in this state:

(a) The administrator may petition the court for the county where a child who is subject to the judgments resides for a governing child support judgment under ORS 25.091; or

(b) The administrator may apply the presumption described in ORS 25.091, determine the controlling terms of the child support judgments and issue a proposed governing child support order and notice to the parties in the manner prescribed by rules adopted by the [administrator] **Department of Justice** under ORS 416.455. The proposed governing child support order must include all of the information described in ORS 25.091 (8). The administrator shall serve the proposed governing child support order and notice in the manner provided in ORS 416.425. The notice must include a statement that the proposed governing child support order shall become final unless a written objection is made to the administrator within 60 days after service of the proposed governing child support order and notice.

(4) If the administrator receives a timely written objection to a proposed governing child support order issued under subsection (3)(b) of this section, the administrator shall certify the matter to the court for the county where a child who is subject to the judgments resides for a governing child support judgment under ORS 25.091.

(5) If the administrator does not receive a timely written objection to a proposed governing child support order issued under subsection (3)(b) of this section, the governing child support order is final. The administrator shall certify the governing child support order to a court for review and approval under ORS 416.425 (10). The governing child support order is not effective until reviewed and approved by the court. If the court approves the governing child support order, the governing child support order becomes the governing child support judgment upon filing as provided in ORS 416.440.

(6) [Once] **When** a governing child support judgment is [created under this section] **entered as described in ORS 416.440**, the noncontrolling terms of each earlier child support judgment regarding monetary support or a health [insurance] **benefit plan** under ORS [25.255] **25.321 to 25.343** are terminated. However, **subject to subsection (7) of this section**, the [creation] **entry** of a governing child support judgment does not affect any support payment arrearage or any liability related to health [insurance] **benefit plan** coverage that has accrued under a child support judgment before the governing child support judgment is [created] **entered**.

(7) For purposes of reconciling any monetary support arrears or credits under all of the child support judgments, amounts collected and credited for a particular period under one child support judgment must be credited against the amounts accruing or accrued for the same period under any other child support judgment.

[(7)] **(8)** Not sooner than 30 days and not later than 60 days after entry of the governing child support judgment, the administrator shall file a certified copy of the governing child support judgment with each court that issued an earlier child support judgment. A failure to file does not affect the validity or enforceability of the governing child support judgment.

[(8)] **(9)** When [a hearing officer] **an administrative law judge** finds that [there exist] two or more child support judgments **exist** involving the same obligor and child and the same period [of time], and each child support judgment was issued in this state, the [hearing officer] **administrative law judge** shall remand the matter to the administrator to follow the provisions of subsection (3) of this section.

Passed by House February 21, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate May 9, 2005

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President of Senate

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

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Governor

Filed in Office of Secretary of State:

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Secretary of State