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137-055-3490

Suspension of Enforcement

(1) For purposes of this rule, “credit balance” means that payments received on a support account exceed all amounts owed by the obligor for ongoing and past-due support.

(2) When a motion has been filed **an action is pending** to terminate, vacate, or set aside a support order, or when a motion has been filed **an action is pending** to modify a support order because of a change in physical custody of the child the administrator may suspend enforcement of the support order if:

(a) Collection of support would result in the support account accruing a credit balance if the motion were granted; and **or**

(b) **Collection of support would create a hardship for the obligor to provide for all of the parties’ children now in the obligor’s household.** ~~The obligee and any child attending school under ORS 107.108 and OAR 137-055-5110, do not object to suspending enforcement of the support order.~~

(3) When enforcement is to be suspended under this section, the administrator will send written notice of the proposed suspension to the obligee and the **any** child attending school, and will send a copy of the notice to the obligor;

(4) The notice will advise the obligee and the **any** child attending school that the ~~obligee, and the child attending school,~~ **they** have 14 days from the date the notice is sent to object in writing to the proposed suspension of enforcement and to give the reason(s) for the objection.

(a) If the **reason for the** suspension is due to a motion to terminate, vacate or set aside a support order **prevent a credit balance**, the obligee and the **any** child attending school, may object only on the basis that a credit balance would not result if the motion were granted **if the basis for the suspension of enforcement is factually incorrect.**

(b) If the **reason for the** suspension is due to a motion to modify the support order because of a change in physical custody **avoid impairing the obligor’s ability to support the parties’ children now in the obligor’s household,** the obligee or **any** child attending school may object only on the basis that **if**:

(A) The child~~(ren)~~ is/~~are~~ not in the physical custody of the obligor;

(B) The child~~(ren)~~ is/~~are~~ in the custody of the obligor without the consent of the obligee or without a court order for legal custody; or

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(C) A credit balance would not result if the motion were granted **The basis for the suspension of enforcement is factually incorrect.**

~~(D) When an obligee or child attending school, files a written objection under this subsection, the administrator will not suspend enforcement. However, if the obligee or child attending school's written objection results in the obligor accruing a credit balance, the provisions of OAR 137-055-6260 will apply. In addition, the obligee or child attending school, may incur an overpayment under OAR 137-055-6220;~~

(5) The obligee or any child attending school may appeal the administrator's decision to suspend enforcement of the support order under ORS 183.484.

Stat. Auth.: ORS 25.125, 180.345

Stats. Implemented: ORS 25.125

Effective: ~~January 3, 2006~~