

**137-055-3640**

**Enforcement of a Subpoena by License Suspension**

(1) For the purposes of this rule the following definitions shall apply:

(a) "License" means any of the licenses, certificates, permits or registrations that a person is required by state law to possess in order to engage in an occupation or profession, all annual licenses issued to individuals by the Oregon Liquor Control Commission, all driving privileges granted by the Department of Transportation under ORS chapter 807 which includes all driving licenses and permits, and all hunting and fishing licenses and tags issued by the Oregon Department of Fish and Wildlife;

(b) "Administrative review" means a review of the obligor's objection to proposed action under this rule performed by the administrator to determine that:

- (A) There is not a mistake in identity of the party;
- (B) The party has not complied with the subpoena; or
- (C) The subpoena was properly served upon the party.

(2) At the discretion of the administrator, the administrator may use the remedy set out in this rule or any other remedy allowable under Oregon law to enforce compliance with a subpoena issued pursuant to OAR 137-055-3620.

(3) When a party to a child support or paternity case has been served with a subpoena pursuant to OAR 137-055-3620 and the time for compliance set out on the subpoena has expired and the subpoenaed party has not complied with the subpoena, the administrator may serve notice to the party that a license or licenses issued to that party will be suspended.

(4) The notice of license suspension shall contain:

- (a) The license(s) subject to suspension;
- (b) The name of the person whose license is subject to suspension, the child support case number, the social security number, if available, and date of birth, if known;
- (c) The date the original subpoena had been served, the deadline the subpoena set for compliance and the documents or information that had been subpoenaed;
- (d) The procedure for contesting license suspension and the bases for contesting the suspension. The only bases for contesting the suspension are:
  - (A) There is a mistake in identity of the party;
  - (B) The party has complied with the subpoena; or

(C) The subpoena was not properly served upon the party pursuant to OAR 137-055-3620.

(e) A statement that the party has 30 days to contest suspension in writing by requesting an administrative review on a form provided by the administrator;

(f) A statement that if the party provides the information or documents that were originally specified in the subpoena within 30 days of the date of the notice, the license(s) will not be suspended; and

(g) A statement that failure to contact the administrator within 30 days of the date of the notice to either request an administrative review to contest the suspension or to provide the originally subpoenaed information or documents will result in suspension of the license(s).

(5) If the party contests the suspension of the license(s), the administrator shall conduct an administrative review to determine if the suspension should occur:

(6) If the administrator determines that the suspension of the license should occur, both the obligee and the obligor shall receive written notice of such determination. The notice will include the following:

(a) The basis for the determination;

(b) The right to appeal the determination and a form on which to make the appeal;

(c) The time limit for making an appeal is 14 days from the date of the notice;

(d) That if no appeal of the suspension is received within 14 days, the licensing agency will be notified to suspend the license immediately.

(7) An appeal of the determination in subsection (5) of this rule shall be to an administrative law judge and the suspension of the license is stayed pending the decision of the administrative law judge. The only bases for the appeal are:

(a) There is a mistake in identity of the party;

(b) The party has complied with the subpoena; or

(c) The subpoena was not properly served upon the party pursuant to OAR 137-055-3620.

(8) If the party fails to provide the subpoenaed information or documents or fails to appeal the determination within the time period allowed, or if the administrative law judge affirms the administrative determination, the administrator shall send a notice to the issuing agency to suspend the license. A copy of this order shall be sent to both parties by regular mail.

(9) The notice to the issuing agency to suspend the license shall contain the following:

(a) A statement that a child support or paternity case record is being maintained by the Child Support Program and that the license holder is a party in that case; and

(b) A statement that the holder of the license has failed to comply with a subpoena pursuant to OAR 137-055-3620.

(10) At any time after suspension of the license, the party may request that the administrator conduct a review to determine if the basis for the license suspension continues to exist. The administrator will review the suspension and notify the issuing agency to reinstate the license, when any of the following conditions are met:

(a) The party has furnished the originally subpoenaed information or documents;

(b) The legal action, enforcement action or other case action has been completed and there is no longer a need for the originally subpoenaed information or documents; or

(c) There is no longer a Child Support Program case.

Stat. Auth.: ORS 25.082, 25.750, and section 2, chapter 73, Oregon Laws 2003  
Stats. Implemented: ORS 25.082 and 25.750