

137-055-3200

Pending Judicial Proceedings and Existing Support Orders

(1) Whenever the administrator seeks to establish or modify a support order, the administrator will first check the Oregon Judicial Information Network (OJIN) and the Child Support case records to determine if:

(a) There is any support proceeding involving the child(ren) pending in this state or any other jurisdiction; or

(b) There is a support order involving the child(ren) in this state or any other jurisdiction, other than the support obligation the administrator seeks to modify.

(2) If a judicial proceeding involving the support of the child(ren) is pending in this state, the administrator may proceed to establish or modify the support order if:

(a) It appears likely that a final judgment will not be entered without substantial delay; or

(b) The state's financial interests cannot be adequately protected without proceeding with the administrative action.

(3) If the administrator proceeds to establish or modify a support order, the administrator must file a notice in the pending judicial proceeding which includes the date of initiation of the administrative action, the action(s) being pursued, and the amount of any current or past support sought.

(4) If the administrator does not proceed to establish or modify a support order, the administrator must send notice to the requesting party and may file an affidavit of appearance in the pending proceeding.

(5) Notwithstanding the provisions of OAR 137-055-3360, if the pending proceeding is in this state, the administrator must file any judgment resulting from an action taken pursuant to section (2) in the county where the proceeding is pending under the pending circuit court case number.

(6) If a support proceeding is discovered after commencing an administrative action but prior to finalizing the administrative order, the administrator may:

(a) Certify all matters under the notice to the court for consolidation in the court proceeding;

(b) Finalize any portion of the order and file it in the county where the proceeding is pending; or

(c) Withdraw the administrative proceeding.

(7) If a child support judgment is discovered after commencing an administrative action but prior to finalizing the administrative order, the administrator may:

(a) Seek to set aside the provisions of the child support judgment and ask the court to enter a new order if:

(A) It was issued without prior notice to the issuing court, administrative law judge or administrator that another support proceeding involving the child was pending or another support judgment involving the child already existed; or

(B) It was issued without service on the administrator as required in ORS 107.087, 107.135, 107.431, 108.110, 109.103 and 109.125, when support rights are assigned to the state and the state's interests were not adequately protected.

(b) Proceed to establish an order for past support only for periods of time not addressed by the child support judgment; or

(c) Withdraw the administrative proceeding.

Stat. Auth.: ORS 25.287 and 416.422

Stats. Implemented: ORS 25.287; 108.110; 109.100; 109.103; 416.415; 416.422; 416.425; 416.440; 416.470; 419B.400; and 419C.590

Effective: October 1, 2004