

137-055-4300

Support Enforcement by Methods Other than Income Withholding

(1) Income withholding, pursuant to OAR 137-055-4060 through 137-055-4180, will be the preferred method that the administrator will use to collect current and past-due support.

(2) If payment is not received in the amount of current support due for each month plus an amount toward any existing arrears, the administrator will pursue additional enforcement actions as specified under this rule.

(a) For purposes of this section, "additional enforcement actions" means actions in addition to income withholding under any of the following circumstances:

(b) The administrator will pursue additional enforcement actions where any of the following circumstances occurs:

(A) Collection by income withholding cannot be attained under OAR 137-055-4060 through OAR 137-055-4180.

(B) Income withholding is collecting less than the amount of current support due for each month; or

(C) Income withholding is collecting the full amount of current support due for each month, but is collecting nothing toward arrears on the case.

(D) No current support is owed, and income withholding is collecting nothing toward arrears or the obligor is not paying a negotiated or agreed-upon amount toward arrears.

(c) All such enforcement actions will be in compliance with, and as appropriate under, state and federal law. The administrator will not initiate or take any action under this rule that is precluded or prohibited by state or federal law due to the circumstances of the individual case.

(d) The administrator will take such action within 30 calendar days of whichever of the following occurs later:

(A) Arrears have occurred; and

(B) The administrator has located the obligor, the obligor's employer, or other assets or sources of income, provided such information is sufficient to enable the next appropriate action on the case.

(e) If service of process is required before taking an enforcement action:

(A) Service must be completed or unsuccessful diligent attempts to serve process must

be documented, and enforcement action must be initiated if process is served, no later than 60 calendar days of initially identifying arrears or of locating the obligor or the obligor's employer, assets, or other sources of income, whichever occurs later.

(B) If a court action is necessary, the requirement to initiate enforcement action within no later than 60 calendar days is met if the administrator has initiated action to enter the case with the court for a court hearing or action.

(f) The administrator is not required to perform those "additional enforcement actions" that the Oregon Child Support Program already provides automatically for every case meeting specified criteria. Further, a case does not necessarily need to meet the criteria for "additional enforcement actions", under section (2) of this rule, in order for the Oregon Child Support Program to automatically provide the enforcement methods under this subsection for every case meeting specified criteria. These enforcement methods include, but are not limited to:

(A) Interception of state and federal tax refunds, under OAR 137-055-4320 through 137-055-4340.

(B) Release of information to consumer credit reporting agencies, under OAR 137-055-4560.

(g) If any enforcement action specified under this rule, whether by itself or in combination with collections attained through income withholding, results in collection of current support each month plus payments toward reducing any arrears that exists on a case, the administrator is not required to pursue further additional enforcement actions on that case. However, the administrator will resume pursuing additional enforcement actions if any of the circumstances under subsection (2)(b) of this rule subsequently occurs.

(3) The administrator will take additional enforcement action, under section (2) of this rule, by attempting to determine if the obligor has any income, property, assets, or resources from which support can be collected.

(a) The administrator will attempt this determination by utilizing any one or more of the following:

(A) Information about the obligor's location, employment, or other income or assets, that the administrator obtains from the obligee or from any other person. The administrator will respond to the obligee, in writing, by telephone, or in person, within 30 days of ascertaining whether or not information submitted by the obligee, on the obligee's own initiative, was accurate or useable.

(B) Information accessible or attainable through the Child Support Enforcement Automated System (CSEAS), or other electronic data sources

(C) Discovery methods, including financial disclosure exams, or written interrogatories, unless any of the following are true:

(i) The administrator has not located the obligor, and is therefore not able to pursue such methods.

(ii) The obligee has not asserted to the administrator, or the administrator has no reason to suspect, that the obligor has specific and verifiable income, property, resources, or assets against which the administrator may take effective action to collect support.

(iii) The administrator has located or verified the obligor's income, property, assets, or resources through other means, or otherwise can do so, and therefore does not need to rely on discovery methods.

(b) The administrator will document the case record with the following:

(A) The administrator's efforts to determine or verify if the obligor has property, assets, or resources, against which the administrator may take action to collect support.

(B) Actions the administrator takes to collect support against such property, assets, or resources.

(4) When the administrator determines that an obligor has income, property, assets, or resources against which enforcement action may be taken, the administrator will, in compliance with and as appropriate under other provisions of this rule and of state and federal law, take one or more of the following specific actions:

(a) Ask the court to require the obligor to post bond or security to ensure payment of support, unless the administrator has determined that:

(A) Based on the experiences of the administrator in its locality, a bond or security is not likely to be commercially available to the obligor for this purpose;

(B) The obligor is legally and financially unable to pay the cost of a bond or security;

(C) Such action cannot reasonably be expected to produce collections sufficient to justify the cost to the administrator;

(D) Any funds the obligor has to purchase a bond would be better applied to requiring the obligor to make payment for current or past-due support. However, on cases where current support is owed to the obligee or to a child attending school under ORS 107.108 and OAR 137-055-5110, and not assigned to the state, the obligee or child attending school must concur with this determination; or

(E) The obligor has taken action to purchase a bond or security without need for court

action.

(b) File liens against real property or personal property that the obligor owns in Oregon, to the extent that a lien does not already exist under Oregon law, or take other effective actions to collect support from the value of such property such as by obtaining a writ of garnishment, unless the administrator has determined that:

(A) The obligor owns no property against which such action would be likely to produce a collection; or,

(B) Such action cannot reasonably be expected to produce collections sufficient to justify the cost to the administrator.

(c) Garnish or attach other assets, or resources of the obligor, unless the administrator has determined that such action cannot reasonably be expected to produce collections sufficient to justify the cost to the administrator. In cases where such action will result in additional taxes or penalties to the obligor, the administrator may negotiate with the obligor to determine an amount the obligor will need to retain to pay such additional taxes or penalties.

(d) Pursue suspension of any license the obligor may have, to the extent permissible under state law and rules.

(e) Prosecute the obligor for contempt of court, subject to section (5) of this rule.

(f) Prosecute the obligor for criminal non-support, subject to section (5) of this rule.

(g) Refer the obligor for federal criminal prosecution under the Interstate Child Support Recovery Act, subject to section (5) of this rule.

(5) Prosecution for contempt of court or for criminal non-support, or referral of obligors for federal criminal prosecution under the Interstate Child Support Recovery Act, is subject to the prosecutorial discretion of the administrator.

Stat. Auth.: ORS 180.345

Stats. Implemented: ORS 25.080

Effective Date: January 3, 2006