

137-055-4420

License Suspension for Child Support

(1) For the purposes of this rule, "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 driver licenses and permits issued by the Department of Transportation under ORS chapter 807, and all permanent and fee-based annual hunting and fishing licenses issued by the Oregon Department of Fish and Wildlife.

(2) The administrator may begin the process to suspend an obligor's licenses if:

(a) The obligor has an order or judgment to pay child support, regardless of whether that order or judgment is currently accruing support;

(b) The administrator has been providing services on the case pursuant to ORS 25.080 for at least three months;

(c) The obligor owes arrears in an amount equal to the greater of three months of support or \$2500;

(d) The obligor and administrator have not entered into an agreement as described in section (10), or there is an agreement but the obligor is not in compliance with the agreement;

(e) The obligor has not made voluntary payments, or payments by income withholding, every month for the last three months greater than the current support amount, or if there is no longer an order or judgment for current support, equal to the amount of the most recent order for current support. This criterion does not apply to payments resulting from garnishment, tax offset, or any other enforcement action other than income withholding; and

(f) The order is not currently suspended under ORS 25.247.

(3) The administrator will consider the obligor's employment and payment history, the obligor's current ability to pay, the likely benefit to the child, and any other pertinent factor in determining whether to initiate or continue the license suspension process.

(4) The administrator will begin the license suspension process by giving written notice to the obligor by regular mail. If the issuing agency or agencies have addresses listed for the obligor other than the address in the administrator's records, the administrator will send copies of the notice to the address in the administrator's records and to each address in the records of the agencies holding licenses. The notice to the obligor will specify:

(a) The obligor's name, final four digits of Social Security number, if available, and year

of birth, if known;

(b) The license(s) subject to suspension and a statement that any license not specified in the notice will also be subject to suspension without a separate notice;

(c) The obligor's child support case number(s);

(d) The basis for the suspension, including amount of the arrears and the amount of the monthly support obligation(s), if any;

(e) The procedure and grounds for contesting the suspension;

(f) A statement that the obligor can prevent suspension of the license(s) by entering into and complying with an agreement with the administrator; and

(g) A statement that unless the obligor contacts the administrator within 30 days of the date of the notice and contests the license suspension or enters into an agreement, the administrator may notify the issuing agency or agencies to suspend the license(s) without further notice.

(5) The obligor may contest the suspension within 30 days of the notice described in section (4) of this rule only on the grounds that:

(a) The obligor owes arrears less than or equal to the greater of three months of support or \$2,500; or

(b) There is a mistake in the obligor's identity.

(6) Any of the following events ends the license suspension process. The administrator will stop all license suspension actions and notify the issuing agency to release any license already suspended, subject to that agency's requirements, if, on timely receipt of a contest from the obligor under section (5), on the obligor's subsequent request for a review of the case, or at any time upon review of the case, the administrator determines that:

(a) The administrator is no longer providing services under ORS 25.080;

(b) The obligor owes arrears less than or equal to the greater of three months of support or \$2,500;

(c) The individual whose license(s) are to be suspended is not the obligor who owes the support arrears that are the basis for the suspension; or

(d) The order is suspended under ORS 25.247.

(7) If the obligor contests license suspension under section (5), the administrator will make a determination based on the criteria in section (6) and notify the parties in writing

of the determination. If the administrator determines that the suspension process will continue, the obligor may object within 30 days of the date of the administrator's determination by requesting an administrative hearing. Upon receipt of the hearing request, the administrator will take no further action to suspend pending receipt of the hearing order.

(8) Not less than 30 days after issuing the notice that the obligor's license is subject to suspension, as described in section (4), the administrator will review the case. If the case continues to qualify for suspension, and no contest has been received from the obligor, the administrator may notify the issuing agency to suspend the obligor's license(s).

(9) If an obligor holds more than one license, any determination regarding suspension of one license is sufficient to suspend any other license.

(10) The administrator may enter into an agreement with the obligor, the obligor's compliance with which will preclude suspension of the obligor's license.

(a) The standard monthly payment amount for a compliance agreement is the amount that could be obtained through income withholding under ORS 25.414. In determining this amount, the obligor's actual earnings will be used, but no less than the equivalent of full-time work at the lowest Oregon minimum wage. An agreement under this subsection may be for any period of time agreed to by the administrator and obligor.

(b) If the obligor demonstrates inability to pay the full amount described in subsection (10)(a), the administrator may agree to a temporary hardship exception for a lesser amount, including, where appropriate, no amount. The administrator may condition the hardship exception on receipt of a modification request from the obligor, including any evidence needed to substantiate the request. A hardship exception may also require that the obligor take specific steps to enhance the obligor's ability to pay, such as job search, job training or substance abuse treatment. A hardship exception under this subsection may be for no longer than six months. At the end of the hardship period, the agreement must automatically change to a standard payment amount under subsection (10)(a). However, at the end of the hardship period, the administrator may agree to a subsequent hardship exception under this subsection if the administrator determines such an exception remains appropriate.

(11) Any agreement entered into under section (10) must include:

(a) The amount and due date of the payment. The due date in the payment agreement is solely for the purposes of the license suspension process and does not affect the monthly due date in the support order;

(b) If the agreement is based on a hardship exception under subsection (10)(b), a standard payment amount determined under subsection (10)(a) that will automatically go into effect at the end of the specified hardship exception period;

(c) The duration of the agreement, including the duration of the subsequent payment agreement if the initial agreement is based on a hardship exception under subsection (10)(b) of this rule;

(d) A statement that payments may be made through income withholding;

(e) A statement that failure to comply with the agreement may result in immediate notification to the issuing agency to suspend the license(s) without further notice to the obligor;

(f) A statement that the agreement may be terminated if the support order or judgment is modified;

(g) A statement that the administrator may terminate the agreement and suspend the license at any time if the obligor fails to comply with the agreement, if the obligor's income changes, or if the obligor has under-reported income;

(h) A statement that the obligor's compliance with the agreement does not preclude any enforcement action by the administrator other than license suspension, and that other collection actions will continue to occur;

(i) A statement that the obligor is required to inform the administrator within 10 days of any change in employment;

(j) A statement that information provided by the obligor may be used for other enforcement actions, including contempt actions; and

(k) The signatures of the obligor and the administrator.

(12) When the administrator enters into an agreement with the obligor, the administrator will send courtesy copies of the agreement to the parties on the case.

(13) If the obligor complies with the agreement, the administrator will not notify the issuing agency to suspend the obligor's license(s), or, if the license has already been suspended, the administrator will notify the issuing agency to reinstate the license.

(14) If the obligor fails to comply with an agreement, the administrator may notify the issuing agency to suspend the obligor's license(s). The administrator will notify the parties to the case that the action has been taken. If the obligor has complied with the agreement for at least one year and then stops complying, the administrator will send the obligor written notice 30 days prior to issuing the notice to suspend to provide the opportunity for the obligor to comply.

(15) If an obligor has more than one child support case, the Child Support Program Director or designee will determine and assign a single office that will be responsible for services relating to that obligor under this rule. Any enforcement services other than license suspension will be provided by the office(s) otherwise assigned to the obligor's

case(s).

Stat. Auth.: ORS 25.750 to 25.785,180.345

Stats. Implemented: ORS 25.750 to 25.783

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