

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 274

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO CHILD SUPPORT; AMENDING SECTION 7-1203, IDAHO CODE, TO PROVIDE
2 FOR CERTAIN AVAILABLE REMEDIES; AMENDING SECTION 7-1206, IDAHO CODE,
3 TO PROVIDE THAT THE DEPARTMENT OF HEALTH AND WELFARE SHALL NOTIFY CON-
4 SUMER REPORTING AGENCIES REGARDING CERTAIN OVERDUE SUPPORT PAYMENTS;
5 AMENDING SECTION 32-1206, IDAHO CODE, TO REVISE PROVISIONS REGARD-
6 ING JUDICIAL PROCEEDINGS FOR INCOME WITHHOLDING; AMENDING SECTION
7 32-1214F, IDAHO CODE, TO REMOVE A PROVISION REGARDING ADMINISTRATIVE
8 RULES; REPEALING SECTION 32-1214G, IDAHO CODE, RELATING TO AUTHORITY
9 OF THE DEPARTMENT TO PROMULGATE RULES; AMENDING CHAPTER 12, TITLE 32,
10 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 32-1214G, IDAHO CODE, TO
11 ESTABLISH PROVISIONS REGARDING THE ENFORCEMENT OF MEDICAL SUPPORT;
12 AMENDING CHAPTER 12, TITLE 32, IDAHO CODE, BY THE ADDITION OF A NEW
13 SECTION 32-1218, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING REVIEW
14 AND MODIFICATION OF SUPPORT ORDERS; AMENDING SECTION 56-203A, IDAHO
15 CODE, TO REVISE PROVISIONS REGARDING THE AUTHORITY OF THE DEPARTMENT
16 TO ENFORCE CHILD SUPPORT; PROVIDING THAT CERTAIN ADMINISTRATIVE RULES
17 CONTAINED IN IDAPA 16.03.03 SHALL BE NULL, VOID, AND OF NO FORCE AND EF-
18 FECT; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
19

20 Be It Enacted by the Legislature of the State of Idaho:

21 SECTION 1. That Section 7-1203, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 7-1203. AVAILABLE REMEDIES. In addition to other remedies available
24 to the department or obligee, collection of any delinquency from an obligor
25 on behalf of an obligee shall be accomplished through any of the following
26 means:

27 (1) The department shall intercept and withhold tax refunds to satisfy
28 child support obligations pursuant to section 56-203D, Idaho Code.

29 (2) The department shall intercept and withhold a portion of any unem-
30 ployment benefit payable to an obligor pursuant to section 72-1365, Idaho
31 Code.

32 (3) The department shall administer a program to withhold a portion of
33 an obligor's income for the benefit of the obligee pursuant to chapter 12,
34 title 32, Idaho Code.

35 (4) The department shall intercept and withhold a portion of any vet-
36 eran's benefits payable to an obligor pursuant to state or federal law.

37 (5) The department shall attach, garnish, or intercept and withhold
38 a portion of any worker's compensation benefits which are payable to an
39 obligor pursuant to title 72, Idaho Code.

40 (6) The department shall intercept and retain any support to reimburse
41 the department for foster care assistance payments, as well as the care and
42 placement of the child in foster care.

1 (7) The department shall deduct legal costs incurred by the department,
 2 up to a maximum of twenty percent (20%) of any collection. The department
 3 shall attempt to obtain an order against the non-custodial parents for the
 4 payment of such legal costs.

5 (8) The department shall charge fees to compensate the department for
 6 services rendered in establishment or enforcement of support obligations,
 7 including:

8 (a) A twenty-five dollar (\$25.00) application fee paid in advance of
 9 any services;

10 (b) A twenty-five dollar (\$25.00) fee to be deducted each time child
 11 support is collected as a result of an income tax offset;

12 (c) A one hundred twenty-two dollar and fifty cent (\$122.50) fee for re-
 13 ferred to the internal revenue service for full collection of the child
 14 support obligation;

15 (d) A fee for location services with the federal parent locator service
 16 as follows:

17 (i) Up to ten dollars (\$10.00) for location of a non-custodial
 18 parent; and

19 (ii) Four dollars (\$4.00) for a social security number; and

20 (e) A thirty-five dollar (\$35.00) annual service fee for each case in
 21 which the department has collected and disbursed at least five hundred
 22 fifty dollars (\$550) of support in the federal fiscal year.

23 SECTION 2. That Section 7-1206, Idaho Code, be, and the same is hereby
 24 amended to read as follows:

25 7-1206. DEPARTMENT LIEN FOR CHILD SUPPORT DELINQUENCY. (1) Upon a
 26 delinquency under a child support order for which the department is or has
 27 been providing child support enforcement services, a lien arises upon and
 28 attaches to the real and personal property of an obligor. When the amount
 29 of the lien is equal to or greater than the total support owing for at least
 30 ninety (90) days, or two thousand dollars (\$2,000), whichever is less, the
 31 lien may be perfected by a filing with the office of the secretary of state.
 32 A perfected lien shall include all subsequently arising delinquencies.
 33 When a lien has been perfected pursuant to this section and the underlying
 34 delinquency reaches a zero balance or is otherwise satisfied, the lien is
 35 automatically released. Any support order or decree issued or modified af-
 36 ter the effective date of this act shall include a provision notifying the
 37 obligor that a lien will arise automatically upon a delinquency. A notice of
 38 release of lien shall be filed pursuant to section 45-1908, Idaho Code.

39 (2) A lien arising out of a child support order or delinquency under
 40 the laws of another state shall be given full faith and credit as if the lien
 41 arose out of a child support order or delinquency under Idaho law.

42 (3) The department shall notify each obligor by certified mail of the
 43 filing of the lien at the same time the notice is delivered to the secretary
 44 of state. No such lien may be enforced until ten (10) days after notice of the
 45 filing of the lien has been given to the obligor.

46 (4) The department shall notify consumer reporting agencies of any
 47 non-custodial parent who owes overdue support exceeding two thousand dol-
 48 lars (\$2,000) and is at least three (3) months in arrears after the court
 49 order is finalized. Notice shall be provided to the non-custodial parent

1 prior to the report being made, including the methods available for contest-
 2 ing the accuracy of the information.

3 SECTION 3. That Section 32-1206, Idaho Code, be, and the same is hereby
 4 amended to read as follows:

5 32-1206. JUDICIAL PROCEEDINGS FOR INCOME WITHHOLDING. (1) A proceed-
 6 ing to enforce a duty of support is commenced:

7 (a) By filing a petition or complaint for an original action; or

8 (b) By motion in an existing action or under an existing case number.

9 (2) Venue for the action is in the district court of the county where the
 10 dependent child resides or is present, where the obligor resides, or where
 11 the prior support order was entered. The petition or motion may be filed by
 12 the obligee, the state, or any agency providing care or support to the depen-
 13 dent child.

14 (3) A filing fee shall not be assessed in cases brought on behalf of the
 15 state of Idaho.

16 (4) A petition or motion shall include a sworn statement by the obligee,
 17 stating the facts authorizing the issuance of the income withholding order,
 18 pursuant to section 32-1204 or 32-1205, Idaho Code, and:

19 (a) The name, address, and social security number of the obligor;

20 (b) A copy of the support order;

21 (c) The name and address of the obligor's employer;

22 (d) The amount of any delinquency; and

23 (e) In cases not filed by the state, whether the obligee has received
 24 public assistance from any source on behalf of the minor child, and, if
 25 so, from which source(s).

26 (5) Upon receipt of a petition or motion, the court shall issue an in-
 27 come withholding order pursuant to section 32-1204 or 32-1205, Idaho Code,
 28 to the employer utilizing the required income withholding for support form
 29 and shall provide a form for an answer to the income withholding order which
 30 shall be returned to the court within ten (10) days. The court shall also
 31 order the employer to remit the amount withheld to the department of health
 32 and welfare within seven (7) business days after the date the amount would
 33 have been paid or credited to the obligor. The department shall supply each
 34 county with the required income withholding for support form and answers
 35 ~~that comply with the rules promulgated by the department, and which include~~
 36 including:

37 (a) The maximum amount of current support, if any, to be withheld from
 38 the obligor's earnings each month, or from each earnings disbursement;

39 (b) The total amount of the arrearage or reimbursement judgment previ-
 40 ously entered by the court, if any, together with interest, if any; and

41 (c) The amount of arrearage payments specified in the support order, if
 42 any.

43 (6) If the petition or motion indicates the obligee has received public
 44 assistance from any source on behalf of a minor child, the clerk shall imme-
 45 diately forward a copy of the petition or the motion to the department.

46 (7) The court retains continuing jurisdiction under this chapter until
 47 all duties of support of the obligor, including any delinquency, have been
 48 satisfied or until the order is otherwise unenforceable.

1 SECTION 4. That Section 32-1214F, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 32-1214F. NOTICE OF MEDICAL SUPPORT ORDER. Any support order or decree
4 that requires a child to be covered by a health benefit plan issued after July
5 1, 2003, shall include a statement in substantially the following form:

6 "Failure to provide medical insurance coverage may result in the
7 direct enforcement of a medical support order by either the obligee
8 or the Department of Health and Welfare. A national medical sup-
9 port notice will be sent to your employer, requiring your employer
10 to enroll the child in a health benefit plan as provided by Sections
11 32-1214A through 32-1214J, Idaho Code, ~~and applicable rules of the~~
12 ~~department.~~".

13 SECTION 5. That Section 32-1214G, Idaho Code, be, and the same is hereby
14 repealed.

15 SECTION 6. That Chapter 12, Title 32, Idaho Code, be, and the same is
16 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
17 ignated as Section 32-1214G, Idaho Code, and to read as follows:

18 32-1214G. ENFORCEMENT OF MEDICAL SUPPORT. (1) In any case for which an
19 assignment of medical support is in effect, the department shall petition
20 the court to include health insurance that is available through employment
21 or another group health benefit plan to either parent, and the department
22 shall take any action necessary to ensure that one (1) parent secures and
23 maintains medical insurance required by the support order.

24 (2) An obligor may request an administrative review within twenty (20)
25 days after a notice of intent to enroll one (1) or more children in a health
26 benefit plan is mailed by the department.

27 (3) The department shall cancel a notice of intent to enroll or a na-
28 tional medical support notice if the parent does not owe medical support, the
29 parent is no longer obligated to provide medical support, or medical support
30 other than medicaid is already being provided by either parent.

31 SECTION 7. That Chapter 12, Title 32, Idaho Code, be, and the same is
32 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
33 ignated as Section 32-1218, Idaho Code, and to read as follows:

34 32-1218. REVIEW AND MODIFICATION OF SUPPORT ORDERS. (1) Each parent
35 subject to a child support order that is being enforced by the department
36 shall be notified of the right to request a review of the order by the de-
37 partment every thirty-six (36) months. Reviews shall not be conducted more
38 frequently unless there has been a substantial and material change in cir-
39 cumstances, including but not limited to:

40 (a) An increase or decrease in income or assets of either parent or
41 other person legally obligated for the support of a child;

42 (b) A substantial change in the needs of the child; or

43 (c) A change in custody or visitation rights of the non-custodial par-
44 ent.

45 (2) A support order shall be reviewed for possible modification:

- 1 (a) If requested by either parent;
 2 (b) If requested by any state, tribal, or foreign child support ser-
 3 vices agency; or
 4 (c) Automatically, at least every thirty-six (36) months, in any case
 5 where either parent is receiving support pursuant to 42 U.S.C. 601 et
 6 seq.

7 (3) After a review pursuant to this section, each parent shall be noti-
 8 fied of the outcome. The department shall only seek a modification of a sup-
 9 port order if the review results in an obligation that differs from the ex-
 10 isting order by at least fifteen percent (15%), but not less than fifty dol-
 11 lars (\$50.00) per month.

12 SECTION 8. That Section 56-203A, Idaho Code, be, and the same is hereby
 13 amended to read as follows:

14 56-203A. AUTHORITY OF DEPARTMENT TO ENFORCE CHILD SUPPORT -- SUPPORT
 15 ENFORCEMENT SERVICES. (1) Whenever the department receives an application
 16 for public assistance on behalf of a child and it shall appear to the satis-
 17 faction of the department that said child has been abandoned by its parents,
 18 or that the child and one (1) parent have been abandoned by the other parent,
 19 or that the parent or other person who has a responsibility for the care, sup-
 20 port or maintenance of such child has failed or neglected to give proper care
 21 or support to such child, the department shall take appropriate action under
 22 the provisions of this chapter, the abandonment or nonsupport statutes, or
 23 other appropriate statutes of this state to ensure that such parent or other
 24 person responsible shall pay for the care, support or maintenance of said de-
 25 pendent child.

26 (2) The department may accept applications for support enforcement
 27 services on behalf of persons who are not recipients of public assistance
 28 and may take action as it deems appropriate to establish, modify or enforce
 29 support obligations against persons owing a duty to pay support. Action to
 30 establish support obligations may be taken under the abandonment or nonsup-
 31 port statutes or other appropriate statutes of this state.

32 ~~The department may charge fees to compensate it for services rendered in~~
 33 ~~establishment of or enforcement of support obligations. The director shall,~~
 34 ~~by rule, establish reasonable fees for support enforcement services, and~~
 35 ~~said schedules of fees shall be made available to all applicants for support~~
 36 ~~enforcement services. The department may, on showing of necessity, waive or~~
 37 ~~defer any such fee.~~

38 ~~(3) Effective October 1, 1998, the~~ The department shall maintain a
 39 state case registry that contains records of each case in which enforcement
 40 services are being provided under this section and each child support order
 41 established or modified in the state from and after that date. ~~Effective the~~
 42 ~~same date, the~~ The department shall collect and disburse payments for all
 43 support orders related to cases for which services are provided under this
 44 section and each child support order established or modified after January
 45 1, 1994, that is subject to income withholding orders. ~~For child support~~
 46 ~~orders established prior to January 1, 1994, at the option of each county and~~
 47 ~~upon payment of the cost of the service, the department shall collect and~~
 48 ~~disburse payments.~~

1 SECTION 9. The rules contained in IDAPA 16.03.03, Idaho Department of
2 Health and Welfare, relating to Child Support Services, shall be null, void,
3 and of no force and effect on and after July 1, 2025.

4 SECTION 10. An emergency existing therefor, which emergency is hereby
5 declared to exist, this act shall be in full force and effect on and after
6 July 1, 2025.