

## DOMESTIC RELATIONS

**DIVISION OF DEATH BENEFITS  
IN JUDGMENT OF ANNULMENT,  
DISSOLUTION OF MARRIAGE,  
OR SEPARATION****ORS 237.600, 237.620, 238.465,  
238A.230****2015 OREGON LAWS CH. 506 (SB 370)**

ORS 238.465 provides for payment of PERS benefits to an alternate payee on divorce, annulment, or unlimited separation. ORS 237.600 deals with payment of benefits from a member of state and local public retirement plans other than PERS. Oregon PERS took the position that a divorced member of OPSRP (Oregon Public Service Retirement Plan, ORS Chapter 238A) who remains single cannot designate a former spouse to receive survivor benefits – at all. Only if the member remarries a second spouse can the member be required to provide benefits to a first spouse. By contrast, PERS Tier One and Tier Two allow survivor benefits to anyone; they are not restricted just to a spouse, much less a former spouse.

Senate Bill 370 requires that the Oregon PERS OPSRP plan and other public employer retirement plans pay out a survivor benefit to a former spouse of the member as provided in a judgment or order.

*Effective date: June 19, 2015. The amendments apply only to benefits of a member who dies on or after the effective date.*

**EQUAL CONSIDERATION TO RELATIVES  
AND CURRENT CARETAKERS AS  
PROSPECTIVE ADOPTIVE PARENTS****ORS 109.309, 419A.004,  
419B.090 to 419B.470****2015 OREGON LAWS CH. 795 (SB 741)**

Under current law governing adoption proceedings; there is no expressed placement preference. Instead, adoption statutes recite the general “best interests of the child” standard as to where the child ought to be placed. Senate Bill 741 requires that the administrative rules governing home studies and placement reports provide equal status and priority to relatives and current caretakers seeking to adopt as is provided to other prospective adoptive parents with regard to factors having to do with the child’s safety, attachment, and well-being. Additionally, SB 741 requires that with regard to suitability of placement, the rules include a preference for relatives and current caretakers over other individuals seeking to adopt.

*Effective date: July 27, 2015. Some of the amendments became operative on September 1, 2015, and some of the amendments became operative January 1, 2016.*

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**PETITION FOR ANNULMENT, DISSOLUTION, OR SEPARATION TO DISCLOSE PROTECTIVE AND RESTRAINING ORDERS**

**ORS 107.085**

**2015 OREGON LAWS CH. 399 (SB 788)**

Senate Bill 788 amends ORS 107.085 to provide that a petitioner in an action for marital annulment, dissolution, or separation must state whether there exists in Oregon or in any jurisdiction a protective order between the parties or any other order that restrains one of the parties from contact with the other party or with the parties' minor children.

*Effective date: January 1, 2016. The amendment applies to petitions filed on or after the effective date.*

**PERSONAL INFORMATION CONTAINED IN JUDGMENTS**

**ORS 18.042, 18.048, 18.170, 25.020, 109.073**

**2015 OREGON LAWS CH. 197 (HB 2340)**

House Bill 2340 protects the personal information of litigants by limiting the information that must be required in court documents. The bill amends a number of statutory provisions that previously required the inclusion of complete Social Security numbers, Taxpayer Identification Numbers, and driver license numbers.

HB 2340 targets four individual types of documents:

- (1) Civil judgments (including judgments arising from dissolution and child support proceedings) containing a money award must now only include the last four digits of a judgment debtor's Taxpayer Identification Number (TIN). Note that ORS 18.042 previously allowed for the exclusion of all but the last four digits of the debtor's Social Security number (SSN), but the IRS defines TINs as including SSNs, which could lead to confusion. HB 2340 creates consistency in the type of information that ought to be excluded from judgments and protected from the public's view;
- (2) Lien record abstracts were subjected to a similar change and must now only include the last four digits of a judgment debtor's TIN (or SSN);
- (3) Paternity and support judgments and orders must now only include the final four digits of each party's SSN and driver license number; and
- (4) Criminal judgments relating to the payment of restitution and compensatory fines to victims of crime must now exclude the victim's name and address.

**Practice Tip:** In the family law context, the TIN that will be included in the money award section of the judgment is the obligor/debtor's SSN. That means practitioners should already be in the habit of including the last four digits of the obligor/debtor's SSN. Practitioners typically exclude all confidential personal information from documents filed with the court pursuant to UTCR 2.130 (Family Law Confidential Personal Information). UTCR 2.130 is specific, however, that mandatory redaction of confidential personal information does not apply to the information required in a money award under ORS 18.042.

ORS 18.042 requires that a money award contain the year of birth, final four digits of either the TIN or SSN, and the final four digits of the driver license number and the name of the state that issued the license for each judgment obligor/debtor.

*Effective date: June 22, 2015. The amendments became operative on January 1, 2016.*

**CREATION OF A RE-ADOPTION PROCESS  
ORS 21.135, 109.309 TO 109.385**

**2015 OREGON LAWS CH. 511 (HB 2365)**

Prior to the passage of House Bill 2365, Oregon law lacked a statutory process for re-adoptions. A re-adoption occurs when adoptive parents travel to a different country and complete the adoption of their child in that country. Prior to passage of HB 2365, re-adoption processes informally adopted in Oregon by one county might differ from those found in other counties. HB 2365 amends ORS 109.385 to provide a specific step-by-step process for a re-adoption proceeding in Oregon that ensures a consistent statewide standard.

*Effective date: June 22, 2015. Some of the amendments apply to adoptions commenced before, on, or after the effective date. Some of the amendments apply to adoptions commenced on or after the operative date of January 1, 2016.*

**ADOPTION FILING FEES**

**ORS 21.135, 109.319, 109.410**

**2015 OREGON LAWS CH. 512 (HB 2366)**

House Bill 2366 provides for an increase in the filing fee for a petition in an adoption proceeding from \$252 to \$255. Under current law, the petitioner must pay a \$252 filing fee when filing the petition, but must then pay an additional \$1 fee once the adoption is finalized for issuance of the Court Certificate of Adoption. HB 2366 combines those two fees in an effort to streamline the administrative

process involved in adoptions. The additional \$2 increase in the fee reflects that the court may no longer charge for issuing certificates of adoption and must, in fact, issue “one or more” certificates once the adoption process is complete.

HB 2366 additionally imposes a filing fee (set forth in ORS 21.145, which is currently \$105) for a motion filed by the birth parent of an adult adoptee under Oregon’s new open adoption records law, except in cases where the Department of Human Services (DHS) consented to the adoption.

*Effective date: January 1, 2016.*

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## **VOLUNTARY ADOPTION REGISTRIES ORS CH. 109**

### **2015 OREGON LAWS CH. 200 (HB 2414)**

House Bill 2414 permits parents or guardians of minor adoptees or minor genetic siblings of adoptees to use and register with voluntary adoption registries. Under existing law, minor siblings are restricted from utilizing the mandatory adoption search and registry program unless the minor child’s birth parent has already registered with the program, the birth parent approves of the use and registry, and all adoptees and siblings have reached the age of 18. HB 2414 amends ORS Chapter 109 to provide that a minor child’s adoptive parent may opt in to the search and registry program on the child’s behalf in an effort to locate a sibling of the minor child, unless the other sibling presently resides with the birth parent. This change in the law provides an avenue for siblings separated by adoption to locate each other with the assistance of their adoptive parents without having to wait until reaching the age of majority.

HB 2414 additionally provides an avenue for children of a deceased adult adoptee to access the search and registry program. Under existing law, the child of an adult adoptee had no independent access to the program, which meant that if the adult adoptee (i.e., parent) died without having ever utilized the program, the child would be left with no readily available avenue to initiate contact with previously unknown family members. HB 2414 permits a child of a deceased adult adoptee to utilize the program so as to promote access to previously unknown family members.

*Effective date: January 1, 2016.*

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## **NO FEES FOR STALKING PROTECTIVE ORDER ORS 30.866**

### **2015 OREGON LAWS CH. 89 (HB 2628)**

Existing law provides that a petitioner seeking a

Stalking Protective Order (SPO) without also seeking damages shall be exempted from filing fees, service fees, and hearing fees. House Bill 2628 extends the exemption of fees to all persons seeking SPOs, regardless of whether additional relief (i.e., monetary damages) is sought.

*Effective date: May 18, 2015.*

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## **EMERGENCY PROTECTIVE ORDER BY PEACE OFFICER ORS 133.310**

### **2015 OREGON LAWS CH. 252 (HB 2776)**

House Bill 2776 authorizes a peace officer to request an emergency protective order on a victim’s behalf that operates much like a traditional FAPA restraining order, albeit on a more restrictive basis. In order to request such an order, the peace officer must first obtain the victim’s consent. The peace officer must then make a showing that probable cause exists that (1) the peace officer has responded to an incident of domestic disturbance and the circumstances for mandatory arrest exist, or that a person is in immediate danger; and (2) an emergency protective order is necessary to prevent a person from suffering the occurrence or recurrence of abuse.

An emergency protective order entered pursuant to this new law is effective upon service of the respondent, but automatically expires seven calendar days from the date the court signs the order or upon further order of the court.

Note: The presiding judge of the circuit court in each county shall designate at least one judge to be reasonably available to enter, in person or by electronic transmission, ex parte emergency protective orders at all times, whether or not the court is open.

*Effective date: January 1, 2016.*

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## **TEMPORARY SUSPENSION OF ENFORCEMENT OF CHILD SUPPORT ORS 25.125**

### **2015 OREGON LAWS CH. 72 (HB 3156)**

ORS Chapter 25 sets forth the framework for enforcement of child support obligations. Under current law, the Oregon Child Support Program (CSP) may suspend enforcement of child support obligations only when continued enforcement will result in a credit. House Bill 3156 provides authority to temporarily suspend enforcement regardless of whether continued enforcement will result in a credit balance, but only if all of the children are residing with the obligor and continued collection of support would impair the obligor’s

ability to provide direct support to the children. The CSP may only suspend enforcement if an action is currently pending to terminate, vacate, or set aside a support order, or to modify a support order because of a change in physical custody of the children.

The obligee may object within 14 days of receiving notice of the CSP's intent to suspend enforcement of the support order, but may only object on the following limited grounds:

- (1) The child is not in the physical custody of the obligor;
- (2) The child is in the physical custody of the obligor, but without the consent of the obligee; or
- (3) The basis for the suspension of enforcement is factually incorrect.

*Effective date: January 1, 2016.*

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## **MULTIPLE CHILD SUPPORT JUDGMENTS**

### **2015 OREGON LAWS CH. 73 (HB 3158)**

In 2005, House Bill 2275 was passed to address cases involving multiple child support judgments. That bill provided that the terms of a later-issued judgment control and the earlier judgment is automatically terminated, but only if several factors are met, including:

- (1) The court (or administrator) specifically ordered that the later-issued judgment would take precedence over the earlier-issued judgment;
- (2) All parties had an opportunity to challenge the later-issued judgment;
- (3) The administrator was providing enforcement services;
- (4) The two child support judgments involved the same obligor, child, and time period; and
- (5) The later-issued child support judgment was entered before January 1, 2004.

House Bill 3158 removes the requirement that the later-issued child support judgment be entered before January 1, 2004, and changes the requirement that the administrator was providing services to a requirement that the administrator is providing services. These changes provide the Oregon Child Support Program with the ability to provide prompt enforcement of the most recent order entered involving the parties.

**Practice Tip:** While HB 3158 creates no new requirements for language practitioners must include in judgments dealing with cases involving multiple child support judgments, it creates an opportunity to review

current form language. The most common situation in which there are multiple child support judgments is when an administrative child support order was put in place initially, followed by a second subsequent order as a result of a dissolution, filiation, or other support proceeding filed in the circuit court. In such instances, the following language should be included in the later-issued judgment:

### **LATER-ISSUED JUDGMENT AS CONTROLLING JUDGMENT**

#### ***Finding of Fact***

*4. An administrative support order was issued February 13, 2015, in CSP Case No. 012AAAB34567. That order was judicially docketed in Marion County Case No. 15DR98765. It is appropriate that the administrative support order remain effective until October 31, 2015, at which time it should terminate (subject to the collection of any arrearage thereunder), and the support judgment entered herein should become the governing child support judgment under ORS 25.091. Although the support judgment herein will then be the governing child support judgment, any arrearage under the administrative order at the time the governing child support judgment becomes effective should continue to be collected and enforced. A copy of the administrative order is attached hereto as required by ORS 25.091(8)(a).*

#### ***Order Section***

*3.4 Governing Child Support Judgment. The child support judgment herein is effective November 1, 2015, and shall become the governing child support judgment on that date. Father's support obligation under CSP Case No. 012AAAB34567, Marion County Case No. 15DR98765 shall terminate October 31, 2015.*

*Effective date: January 1, 2016.*

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## **DISHONORED CHECK AS PAYMENT**

### **FOR CHILD SUPPORT**

### **ORS 25.125**

### **2015 OREGON LAWS CH. 74 (HB 3159)**

House Bill 3159 amends ORS 25.125 to provide that the State may recover from any person or entity that issues a dishonored check for payment of child support. Under current law, the State is permitted to recover only from the obligor or the withholder who presented the check (i.e., obligor's employer). The bill clarifies that the State may recover from either the obligor or the issuer.

*Effective date: January 1, 2016.*

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**PRIVILEGE FOR COMMUNICATIONS BETWEEN  
VICTIMS OF DOMESTIC VIOLENCE AND ADVOCATES  
ORS 40.225 TO 40.295  
2015 OREGON LAWS CH. 265 (HB 3476)**

House Bill 3476 creates a new type of communications privilege protected under the Oregon Evidence Code. The bill provides that confidential communications between a victim of sexual assault, domestic violence, or stalking and victim advocates or services programs are protected communications that are inadmissible in civil, criminal, administrative, and school proceedings. The victim holds the privilege, but consistent with other protected privileges, the communication may be disclosed by the advocate or program without the victim's consent to the extent necessary for defense in any civil, criminal, or administrative action that is brought against the advocate or program by or on behalf of the victim.

*Effective date: June 4, 2015. Most of the bill became operative on October 1, 2015. The bill applies only to proceedings occurring on or after the operative date. The bill applies to communications and records made before, on, or after the operative date, unless the communications were disclosed to a third party before the operative date.*