

SENATE BILL 2759  
By Dixon

AN ACT to amend Tennessee Code Annotated, Title 36, relative to alimony and child support.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-5-101, is amended by deleting that section in its entirety and substituting therefor the following:

(a)

(1) Whether the marriage is dissolved absolutely, or a perpetual or temporary separation is decreed, the court may make an order and decree for the suitable support and maintenance of either spouse by the other spouse, or may award any portion of either spouses' property to the other spouse, according to the nature of the case and the circumstances of the parties. The order or decree shall remain in the court's control. On application of either party for spousal support, the court may decree an increase or decrease of such allowance only upon a showing of a substantial and material change of circumstances.

(2)

(A) Courts having jurisdiction of the subject matter and of the parties are hereby expressly authorized to provide for the future support of a spouse and of the children, in proper cases, by fixing some definite amount or amounts to be paid in monthly, semimonthly, or weekly installments, or otherwise, as circumstances may warrant, and such awards, if not paid, may be enforced by any appropriate process of the court having jurisdiction thereof, including levy of execution.

(B) In all cases where a person who is receiving alimony in futuro or alimony the amount of which is not calculable on the date the decree was entered remarries, the alimony in futuro or alimony the amount of which is not calculable on the date the decree was entered, will terminate automatically and unconditionally upon the remarriage of the recipient. The recipient shall provide timely notice of the remarriage to the obligor. Failure of the recipient to timely give notice of the remarriage will allow the obligor to recover all amounts paid as alimony in futuro or alimony the amount of which is not calculable on the date the decree was entered, to the recipient after the recipient's marriage.

(3) In all cases where a person is receiving alimony in futuro and the alimony recipient lives with a third person, a rebuttable presumption is thereby raised that:

(A) The third person is contributing to the support of the alimony recipient and the alimony recipient therefore does not need the amount of support previously awarded, and the court therefore should suspend all or part of the alimony obligation of the former spouse; or

(B) The third person is receiving support from the alimony recipient and the alimony recipient therefore does not need the amount of

alimony previously awarded and the court therefore should suspend all or part of the alimony obligation of the former spouse. This subdivision (a)(3) shall in no way be construed to create any common-law marriage obligation as to third parties.

(4)

(A) It is the intent of the general assembly that a spouse who is economically disadvantaged, relative to the other spouse, be rehabilitated whenever possible by the granting of an order for payment of rehabilitative, temporary support and maintenance. Where there is such relative economic disadvantage and rehabilitation is not feasible in consideration of all relevant factors, including those set out in this subsection, then the court may grant an order for payment of support and maintenance on a long-term basis or until the death or remarriage of the recipient except as otherwise provided in subdivision (a)(3).

(B) Rehabilitative support and maintenance is a separate class of spousal support as distinguished from alimony in solido and periodic alimony. In determining whether the granting of an order for payment of support and maintenance to a party is appropriate, and in determining the nature, amount, length of term, and manner of payment, the court shall consider all relevant factors, including:

(i) The relative earning capacity, obligations, needs, and financial resources of each party, including income from pension, profit-sharing or retirement plans and all other sources;

(ii) The relative education and training of each party, the ability and opportunity of each party to secure such education and

training, and the necessity of a party to secure further education and training to improve such party's earning capacity to a reasonable level;

(iii) The duration of the marriage;

(iv) The age and mental condition of each party;

(v) The physical condition of each party, including, but not limited to, physical disability or incapacity due to a chronic debilitating disease;

(vi) The extent to which it would be undesirable for a party to seek employment outside the home because such party will be custodian of a minor child of the marriage;

(vii) The separate assets of each party, both real and personal, tangible and intangible;

(viii) The provisions made with regard to the marital property as defined in §36-4-121;

(ix) The standard of living of the parties established during the marriage;

(x) The extent to which each party has made such tangible and intangible contributions to the marriage as monetary and homemaker contributions, and tangible and intangible contributions by a party to the education, training or increased earning power of the other party;

(xi) The relative fault of the parties in cases where the court, in its discretion, deems it appropriate to do so; and

(xii) Such other factors, including the tax consequences to each party, as are necessary to consider the equities between the parties.

(C) An award of rehabilitative, temporary support and maintenance shall remain in the court's control for the duration of such award, and may be increased, decreased, terminated, extended, or otherwise modified, upon a showing of substantial and material change in circumstances. Rehabilitative support and maintenance shall terminate upon the death of the recipient. Such support and maintenance shall also terminate upon the death of the payor unless otherwise specifically stated. The recipient of the support and maintenance shall have the burden of proving that all reasonable efforts at rehabilitation have been made and have been unsuccessful.

(b) The court may, in its discretion, at any time pending the suit, upon motion and after notice and hearing, make any order that may be proper to compel a spouse to pay any sums necessary for the support and maintenance of the other spouse and to enable such spouse to prosecute or defend the suit and to provide for the custody and support of the minor children of the parties during the pendency of the suit, and to make other orders as it deems appropriate. Spousal support may include expenses of job training and education. In making any order under this subsection, the court shall consider the financial needs of each spouse and the children, and the financial ability of each spouse to meet those needs and to prosecute or defend the suit.

(c)

(1) Whether the marriage is dissolved absolutely, or a perpetual or temporary separation is decreed, the court may make an order and decree for the suitable support and maintenance of the child or children, or any of them, by

either spouse, out of such spouse's property, according to the nature of the case and the circumstances of the parties. The order or decree shall remain in the court's control.

(2)

(A) In cases involving child support, upon application of either party, the court shall decree an increase or decrease of such allowance when there is found to be a significant variance, as defined in the child support guidelines established by subsection (j), between the guidelines and the amount of support currently ordered unless the variance has resulted from a previously court-ordered deviation from the guidelines and the circumstances which caused the deviation have not changed. The necessity to provide for the child's health care needs shall also be a basis for modification of the amount of the order, regardless of whether a modification in the amount of child support is necessary. In no event shall eligibility for, or receipt of, Medicaid or TennCare-Medicaid by the custodial parent be considered to meet the need to provide for the child's health care needs in the order. The court shall not refuse to consider a modification of a prior order and decree as it relates to future payments of child support because the party is in arrears under that order and decree, unless the arrearage is a result of intentional action by the party. The court shall set a specific amount which is due in each month to be paid in one (1) or more payments as the court directs. Unless the court finds otherwise, each order made under this section shall contain the current address of the parties.

(B) When an order provides for the support of two (2) or more children in a case which is subject to enforcement under Title IV-D, and at

least one (1) child is a public charge based upon receipt of temporary assistance pursuant to Title 71, Chapter 3, Part 1, TennCare-Medicaid, or foster care or other custodial services from the state of Tennessee, the child support order shall be prorated by the department for purposes of distribution of the child support to the appropriate person or agency providing care or support for the child without the need for modification of the child support order by the court.

(d) The order or decree of the court may provide that the payments for the support of such child or children shall be paid either to the clerk of the court or directly to the spouse, or other person awarded the custody of the child or children; provided, however:

(1) That the court shall order that all child or spousal support payments based upon an income assignment issued by the clerk be paid to the clerk of the court, except, as set forth in subdivision (d)(2), for child or spousal support cases that are subject to the provisions for central collection and disbursement pursuant to §36-5-116; and

(2) That in all Title IV-D child or spousal support cases in which payment of child or spousal support is to be made by income assignment, in all non-Title IV-D cases in which on or after January 1, 1994, the court ordered payment by income assignment to the central collection and disbursement unit as provided by §36-5-116, and, except as may otherwise be allowed by §36-5-501(a)(2)(B), the court shall only order that the support payments be made to the central collection and disbursement unit pursuant to §36-5-116. No agreement by the parties in a parenting plan, either temporary or permanent, entered pursuant to the provisions of Title 36, Chapter 6, Part 4, or any other agreement of the parties or order of the court, except as may otherwise be allowed by §36-5-

501(a)(2)(B), shall alter the requirements for payment to the central collection and disbursement unit as required by §36-5-116, and any provision of any parenting plan, agreement or court order providing for any other payment procedure contrary to the requirements of §36-5-116, except as may otherwise be allowed by §36-5-501(a)(2)(B), whether or not approved by the court, shall be void and of no effect. No credit shall be given by the court, the court clerk or the department of human services for child or spousal support payments required by the support order that are made in contravention of such requirements; provided, however, the department may make any necessary adjustments to the balances owed to account for changes in the Title IV-D or central collection and disbursement status of the support case.

(e)

(1) When the court enters an order in which the paternity of a child is determined or support is ordered, enforced or modified for a child, each individual who is a party to any action pursuant to this part shall be immediately required to file with the court and, if the case is a Title IV-D child support case, shall immediately file with the local Title IV-D child support office, for entry into the state registry of support cases, and shall update, as appropriate, the parties' and, for subdivisions (e)(1)(A) - (e)(1)(C), the child's or children's:

(A) Full name and any change in name;

(B) Social security number and date and place of birth;

(C) Residential and mailing addresses;

(D) Home telephone numbers;

(E) Driver license number;

(F) The name, address, and telephone number of the person's employer;

(G) The availability and cost of health insurance for the child; and

(H) Gross annual income.

The requirements of this subdivision may be included in the court's order.

(2) Each individual who is a party must update changes in circumstances of the individual for the information required by subdivision (e)(1) within ten (10) days of the date of such change. At the time of the entry of the first order pertaining to child support after July 1, 1997, clear written notice shall be given to each party of the requirements of this subsection, procedures for complying with the subsection and a description of the effect or failure to comply. Such requirement may be noted in the order of the court.

(3) In any subsequent child support enforcement action, the delivery of written notice as required by Tennessee Rule of Civil Procedure 5 to the most recent residential or employer address shown in the court's records or the Title IV-D agency's records as required in subdivision (e)(1) shall be deemed to satisfy due process requirements for notice and service of process with respect to that party if there is a sufficient showing and the court is satisfied that a diligent effort has been made to ascertain the location and whereabouts of the party.

(4) Upon motion of either party, upon a showing of domestic violence or the threat of such violence, the court may enter an order to withhold from public access the address, telephone number, and location of the alleged victim or victims or threatened victims of such circumstances. The clerk of the court shall withhold such information based upon the court's specific order but may not be held liable for release of such information.

(f)

(1) All support payments which have been paid to the clerk of the court shall be distributed by the clerk as provided in the order of the court within ten

(10) days; provided, that the payments made to the clerk of the court in Title IV-D child support cases shall be distributed and deposited pursuant to the operating agreements under subdivision (f)(3) and the provisions of subdivision (f)(6) after implementation of the statewide Title IV-D child support computer system in the clerk's county, and after the appropriate notice to the clerk by the department under these subdivisions.

(2) If the clerk receives child support payments on behalf of an individual who has assigned rights to child support to the department under the aid to families with dependent children (AFDC) program prior to the implementation of the statewide Title IV-D child support computer system pursuant to the provisions of subdivision (f)(3), the clerk shall send any support payment received on behalf of such individual, along with the first and last names of the parties, docket number, IV-D number (if any), IV-A number (if any), and date and amount of payment, to the department or its designee within ten (10) working days of receipt thereof. Further, in every such IV-D case, if unable to provide the information concerning an order through a computer information transfer, the clerk shall send a copy of any new order or modification of such order, prior to or along with the first payment received pursuant to such order to the department or its designee within the time limit stated above. In the event the department or its designee provides the clerk with a certificate specifying the amount of support due the state as a result of assistance payments made to, or on behalf of, such individual, the clerk shall distribute the payments to such individual and to the department in accordance with such certificate.

(3) All clerks of courts with responsibilities for the collection and distribution of child support obligations shall elect whether to participate in the operation of the statewide Title IV-D child support computer system within thirty

(30) days of notification by the department requesting a decision. The election shall be accomplished by the signing of a letter of agreement with the department which shall set forth the obligations of the department and the clerk relative to the operation of the system. Clerks electing to participate shall be bound by the terms of the agreement and the laws, regulations, and the policies and procedures of the Title IV-D child support program for the term of the agreement, unless the agreement is cancelled by the department after notice to the clerk and an opportunity to correct any deficiencies caused by failure of the clerk to comply with federal or state regulations or procedures for operation of the system within thirty (30) days of such notice. While participating in the system, the clerks shall be entitled to receive the statutory fee for the collection and handling of child support obligations under the Title IV-D program. If a clerk declines to participate in the system, payments of child support to the clerk and the statutory collection fee shall continue until the clerk is notified by the department that the system is operative in the clerk's county. If the agreement is subsequently cancelled, or when the department notifies the clerk who does not elect to participate, that the system is operative in the clerk's county, the payment of the child support obligations and the statutory fee for collection of Title IV-D child support payments in Title IV-D cases shall be immediately payable to the department or its designee by the obligor without the necessity of a change to the court order upon notice by the department to the obligor and to the employer if the obligor is under an income assignment. Any Title IV-D child support payment which the clerk who is not participating in the system receives after the date on which the clerk is notified of the effective date of the operation of the system in the clerk's county, or after notice by the department or its contractor that Title IV-D services are now being provided on a child support case, or after the cancellation of the

operating agreement, shall be sent immediately by the clerk to the department or its designee, without the necessity of a court order.

(4) The clerks of all courts involved in the collection of any child support shall cooperate with and provide any reasonable and necessary assistance to the department or its contractors in the transfer of data concerning child support to the statewide Title IV-D child support computer system.

(5) Whenever the clerk has ceased handling Title IV-D child support payments under the provisions of subdivision (f)(3), and only where the context requires, all provisions in this chapter relating to the duties or actions involving the clerk shall be interpreted to substitute the department or its contractor.

(6) In all cases which are being served by the department or any of its contractors under the Title IV-D child support program, the clerks shall, upon notice by the department, deposit all receipts of Title IV-D child support payments on a daily basis to a bank account from which the state of Tennessee will electronically debit those payments for the purpose of obtaining funds to distribute the child support obligations to the obligee. The clerk, by written agreement with the department, may disburse child support receipts directly to the obligee.

(g) In all Title IV-D child support cases, child support payments shall be made by the obligor to the clerk of the court, or the department if the clerk is not participating in the statewide Title IV-D child support computer system under subdivision (f)(3). In Title IV-D child support cases, where the obligor has been ordered to make child support payments to the clerk, or the department if the clerk is not participating in the statewide Title IV-D child support computer system under subdivision (f)(3), no credit shall be given to an obligor for any payments made by the obligor or by another person on behalf of the obligor, directly to an obligee or the obligor's child or children unless the obligee

remits the payment to the department or the participating clerk. In the event that a Title IV-D case is instituted subsequent to the establishment of an order of child support, the department will notify the obligor and obligee and the appropriate clerk of this fact, and all payments of child support in Title IV-D cases shall be made by the obligor to the department or the clerk, as appropriate under section (g), without further order of the court.

(h)

(1) Any order for child support shall be a judgment entitled to be enforced as any other judgment of a court of this state and shall be entitled to full faith and credit in this state and in any other state. Such judgment shall not be subject to modification as to any time period or any amounts due prior to the date that an action for modification is filed and notice of the action has been mailed to the last known address of the opposing parties. If the full amount of child support is not paid by the date upon which the ordered support is due, the unpaid amount is in arrears and shall become a judgment for the unpaid amounts and shall accrue interest from the date of the arrearage at the rate of twelve percent (12%) per annum. All interest which accumulates on arrearages shall be considered child support. Computation of interest shall not be the responsibility of the clerk.

(2) In establishing or enforcing any duty of support under this chapter, the court shall give full faith and credit to all paternity determinations of any other state or territory made pursuant to a voluntary acknowledgement or pursuant to any administrative or judicial process.

(i) In addition to the remedies provided in Part 5 of this chapter, but not as an alternative to those provisions, if a parent is more than thirty (30) days in arrears, the clerk of the court may, upon written application of the obligee parent, a guardian or custodian of the children, or the department of human services or its contractors in Title

IV-D support cases, issue a summons or, in the discretion of the court, an attachment for such parent, setting a bond of not less than two hundred fifty dollars (\$250) or, in the discretion of the court, up to the amount of the arrears, for such other proceedings as may be held in the matter. In addition, the court may at any time require an obligor parent to give security by bond with sufficient sureties approved by the court for payment of past, present, and future support due under the order of support. If the obligor parent thereafter fails to appear or fails without good cause to comply with the order of support, such bonds may be forfeited and the proceeds therefrom paid to the court clerk and applied to the order of support.

(j)

(1)

(A) Beginning October 13, 1989, the child support guidelines promulgated by the department pursuant to the rulemaking provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, shall be the guidelines that courts shall apply as a rebuttable presumption in child support cases. If the court finds that evidence is sufficient to rebut this presumption, the court shall make a written finding that the application of the child support guidelines would be unjust or inappropriate in that particular case, in order to provide for the best interest of the child or children or the equity between the parties. Findings that the application of the guidelines would be unjust or inappropriate shall state the amount of support that would have been ordered under the child support guidelines and a justification for the variance from the guidelines.

(B) Notwithstanding any provision of this section or any other law or rule to the contrary, if the net income of the obligor exceeds ten

thousand dollars (\$10,000) per month, then the custodial parent must prove by a preponderance of the evidence that child support in excess of the amount, [calculated by multiplying the appropriate percentage set forth in the child support guidelines by a net income of ten thousand dollars (\$10,000) per month], is reasonably necessary to provide for the needs of the minor child or children of the parties. In making its determination, the court shall consider all available income of the obligor, as required by this chapter, and shall make a written finding that child support in excess of the amount so calculated is or is not reasonably necessary to provide for the needs of the minor child or children of the parties.

(2) Child support guidelines shall be reviewed at least every four (4) years from the date of promulgation and revised, if necessary, to ensure that the application of the guidelines results in the determination of appropriate child support award amounts.

(3)

(A) Except as provided in subdivision (j)(3)(B), the court may continue child support beyond a child's minority for the benefit of a child who is handicapped or disabled, as defined by the Americans with Disabilities Act, until such child reaches twenty-one (21) years of age.

(B) Provided, that such age limitation shall not apply if such child is severely disabled and living under the care and supervision of a parent and the court determines that it is in the child's best interest to remain under such care and supervision and the obligor is financially able to continue to pay child support. In such cases, the court may require the

obligor to continue to pay child support for such period as it deems in the best interest of the child.

(4) In so doing, the court may use the child support guidelines.

(k)

(1) The court may direct the acquisition or maintenance of health insurance covering each child of the marriage and may order either party to pay all, or each party to pay a pro rata share of, the health care costs not paid by insurance proceeds. The court may also direct a party to pay the premiums for insurance insuring the health care costs of the other party.

(2) In any case in which the court enters an order of support in a case enforced under Title IV-D of the Social Security Act, the court shall enter an order providing for health care coverage to be provided for the child or children.

(3)

(A) When, pursuant to subdivision (k)(2), the party ordered to pay health care coverage changes employment and the new employer provides health care coverage, the department of human services shall transfer notice of such provision to the new employer and to the party. This notice shall operate to enroll the child in the health care plan of the party ordered to pay child support except as provided in subdivision (k)(3)(B).

(B) The notice to the party shall contain a statement of the right to contest the notice as provided by Part 10 of this chapter and enrollment of the child in the employer's health plan and the procedure for filing an administrative appeal with the department of human services. The notice shall direct the party to file with the employer a copy of the appeal request within fifteen (15) days of the date of mailing of the notice as recorded in

the records of the department. Upon such timely filing with the employer and the timely filing of an administrative appeal with the department, the insurance coverage for the child shall not become effective until the determination of the administrative appeal by the department.

(l) The court may direct either or both parties to designate the other party and the children of the marriage as beneficiaries under any existing policies insuring the life of either party and maintenance of existing policies insuring the life of either party, or the purchase and maintenance of life insurance and designation of beneficiaries.

(m) Nothing in this section shall be construed to prevent the affirmation, ratification and incorporation in a decree of an agreement between the parties as to support and maintenance of a party or as to child support. In any such agreement, the parties must affirmatively acknowledge that no action by the parties will be effective to reduce child support after the due date of each payment, and that they understand that court approval must be obtained before child support can be reduced, unless such payments are automatically reduced or terminated under the terms of the agreement.

(n) Absent a court order to the contrary, if an arrearage for child support or fees due as court costs exist at the time an order for child support would otherwise terminate, the order of support or any then existing income withholding arrangement and all amounts ordered for payment of current support or arrears, including any arrears due for court costs, shall continue in effect in an amount equal to the then existing support order or income withholding arrangement until the arrearage and costs due are satisfied and the court may enforce all orders for such arrearages by contempt.

(o)

(1) A voluntary acknowledgement of paternity which is completed under the provisions of §68-3-203(g), §68-3-302, or §68-3-305(b) or under similar provisions of another state or government, when certified by the state registrar or

other governmental or institutional entity maintaining the record of the acknowledgement, shall be a basis for establishing a support order without requiring any further proceedings to establish paternity.

(2) The state of Tennessee, its officers, employees, agents or contractors, any counties, county officials, the clerks of any court, or any Title IV-D child support enforcement agency shall not be liable in any case to compensate any person for repayment of child support paid or for any other costs as a result of the rescission pursuant to §24-7-113 of any voluntary acknowledgment or the rescission of any orders of legitimization, paternity, or support.

(3) No provision, finding of fact or conclusion of law in a final decree of divorce or annulment or other declaration of invalidity of a marriage which provides that the husband is not the father of a child born to the wife during the marriage or within three hundred (300) days of the entry of the final decree, or which names another person as the father of such child shall be given preclusive effect unless scientific tests to determine parentage are first performed and the results of the test which exclude the husband from parentage of the child or children or which establish paternity in another person are admitted into evidence. The results of such parentage testing shall only be admitted into evidence in accordance with the procedures established in §24-7-112.

(p)

(1) In enforcing any provision of child support, if an obligee, or the department or its contractor in Title IV-D cases, specifically prays for revocation of a license because an obligor is alleged to be in noncompliance with an order of support, or if the court determines on its own motion or on motion of a party that any individual party has failed to comply with a subpoena or a warrant in connection with the establishment or enforcement of an order of support, the

court may find specifically in its order that the obligor is not in compliance with an order of support as defined by Part 7 of this chapter, or it may find that an individual party has failed to comply with a subpoena or warrant in connection with the establishment or enforcement of an order of support, and may direct that any or all of the obligor's or individual party's licenses be subject to revocation, denial or suspension by the appropriate licensing authority pursuant to Part 7 of this chapter. The court shall direct the clerk to send a copy of that order to the department of human services to be sent by the department to each licensing authority specified in the order for processing and suspension, denial or revocation pursuant to §36-5-706 and any other applicable provisions of Part 7 of this chapter. Costs related to such order shall be taxed to the obligor or individual party.

(2) If the obligor whose license has been subject to the provisions of subdivision (p)(1) complies with the order of support, or if the individual party complies with the subpoena or warrant, the court shall enter an order making such a finding and the clerk shall send an order immediately to the department of human services to be transmitted to each licensing authority specified in the order which shall then immediately issue, renew or reinstate the obligor's or individual party's license in accordance with the provisions of §36-5-707. Costs related to such order shall be taxed to the obligor or individual party as the case may be and shall be paid by the obligor or the individual party prior to sending the order to the department for transmission to the licensing authority.

(3) The department shall provide available information to the obligee or party or the court in actions under this subsection concerning the name and address of the licensing authority or authorities of the obligor or individual party in order to enable the enforcement of the provisions of this subsection. The obligee

or individual party, as the case may be, seeking such information shall pay a fee as established by the department for the provision of such service. These fees may be taxed as costs to the obligor whose license has been revoked pursuant to this subsection or to the individual party who has failed to comply with the warrant or subpoena.

(4) If the licensing authority fails to take appropriate action pursuant to the orders of the court under this subsection, the party may seek a further order from the court to direct the licensing authority to take such action and the party may seek any appropriate court sanctions against the licensing authority.

(5) For purposes of this subsection, "individual party" means a party to the support action who is a person, but does not include a governmental agency or the contractor or agent of such governmental agency which is enforcing an order of support. "Party" may include, where the context requires, an individual person or it may include a governmental agency or contractor or agent of such governmental agency.

(q)

(1) Notwithstanding any other provision of law to the contrary, neither the department of human services, nor any Title IV-D child support contractor of the department, nor any recipient of public assistance in this or any other state or territory, nor any applicant for either public assistance in this or any other state or territory or for Title IV-D child support services from the department or any other Title IV-D agency in this or any other state or territory, shall be required to demonstrate to a court or administrative tribunal that the caretaker of the child for whom child support is sought is vested with any more than physical custody of the subject child or children in order to have standing to petition for child support from the legal parent of the child or children for whom support is sought, or to

seek enforcement or modification of any existing orders involving such child or children.

(2) Legal custody of a child to whom a child support obligation is owed shall not be a prerequisite to the initiation of any support action or to the enforcement or modification of any support obligation in such cases, whether or not the obligation has been assigned to this state or any other state or territory by operation of law.

(r) In any Title IV-D case, if the court grants relief, whether in whole or in part, to the department of human services or to the department's Title IV-D contractor or to any applicant for Title IV-D child support services, the court shall not tax any court costs against the department, the Title IV-D contractor or against any applicant for child support services. The court shall not award attorneys fees against the department, the Title IV-D contractor or against any applicant for child support services unless there is a clearly established violation of Rule 11 of the Tennessee Rules of Civil Procedure or for other contemptuous or other sanctionable conduct. This provision is not intended to limit the discretion of the courts to tax costs to the individual parties on non-Title IV-D issues such as custody or visitation.

(s) The order of any court or administrative tribunal directing that an obligor pay a sum certain to reduce any support arrearage shall not preclude the use by the department of human services or its contractors in the Title IV- D child support program of any other administrative means of collecting the remaining balance of the outstanding arrearage including, but not limited to, income tax refund intercepts, financial institution collections, enforcement of liens, or any other method authorized by law. The use of any additional administrative means of collection by the department or its contractors in the Title IV-D child support program is expressly authorized to reduce any portion, or all, of the outstanding balance of support as shown by the department's records, and any order

of the court or administrative tribunal to the contrary is without any effect whatsoever, except for such appeal as may lie from the implementation of the administrative procedure which is used to reduce the arrearage.

(t) In making any decree or order pursuant to this section, the court shall consider the provisions of §34-11-102(b) [transferred to §34-1-102(b)].

(u) As used in this chapter, "order," where the context requires, includes an order concerning child or medical support issued pursuant to an administrative proceeding in any other state.

(v) In intrastate cases, jurisdiction to modify, alter or change orders or decrees for the support of children shall be determined in accordance with the provisions of Parts 30 and 31 of this chapter.

SECTION 2. Tennessee Code Annotated, Section 36-5-1002(a)(6), is amended by deleting the language "§36-5-101(f)(2)" after the language "party pursuant to" and before the language ", or title 36, chapter 2, part 1", and substituting therefor the language "§36-5-101(k)(2)".

SECTION 3. Tennessee Code Annotated, Section 36-5-1001(a)(1)(C), is amended by deleting the language "§36-5-101(f)(2)", and substituting therefor the language "§36-5-101(k)(2)".

SECTION 4. Tennessee Code Annotated, Section 36-5-901(a)(2), is amended by deleting the language "§36-5-101(a)(5)" wherever it may occur and substituting therefor the language "§36-5-101(h)(1)".

SECTION 5. Tennessee Code Annotated, Section 36-5-901(a)(2), is amended by deleting the language "§36-5-101(g)" and substituting therefore the language "§36-5-101(l)".

SECTION 6. Tennessee Code Annotated, Section 36-5-702, is amended by deleting the language "§36-5-101(a)(4)(C)(iii)" in the first sentence, and substituting therefor the language "§36-5-101(f)(3)".

SECTION 7. Tennessee Code Annotated, Section 36-2-320, is amended by deleting the language "§36-5-101(o)" and substituting therefor the language "§36-5-101(p)".

SECTION 8. Tennessee Code Annotated, Section 36-5-103(a)(1), is amended by deleting the language "§36-5-101(b)" in the first sentence and substituting therefor the language "§36-5-101(i)".

SECTION 9. Tennessee Code Annotated, Section 36-5-103(f)(1)(A), is amended by deleting the language "§36-5-101(e)" at the end of the first sentence, and substituting therefor the language "§36-5-101(j)".

SECTION 10. Tennessee Code Annotated, Section 36-5-103(f)(1)(B), is amended by deleting the language "§36-5-101(e)" at the end of the first sentence and substituting therefor the language "§36-5-101(j)".

SECTION 11. Tennessee Code Annotated, Section 36-5-106(b), is amended by deleting the language "§36-5-101(a)(5)" and substituting therefor the language "§36-5-101(h)(1)".

SECTION 12. Tennessee Code Annotated, Section 36-5-106(c), is amended by deleting the language "§36-5-101(a)(4)(B)" in the first sentence and substituting therefor the language "§36-5-101(e)".

SECTION 13. Tennessee Code Annotated, Section 36-5-113(e), is amended by deleting the language "§36-5-101(a)(5)" in the last sentence and substituting therefor the language "§36-5-101(h)(1)".

SECTION 14. Tennessee Code Annotated, Section 36-5-115(c)(1)(B), is amended by deleting the language "§36-5-101(a)" in the first sentence and substituting therefor the language "§36-5-101(c)".

SECTION 15. Tennessee Code Annotated, Section 36-5-501(b)(1)(G), is amended by deleting the language "§36-5-101(a)(5)" in the first sentence and substituting therefor the language "§36-5-101(h)(1)".

SECTION 16. This act shall take effect upon becoming a law, the public welfare requiring it.