Chapter 416

1983 REPLACEMENT PART

Recovery of Assistance Payments

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RELATIVES' RESPONSIBILITY LAW

416.010 Definitions for ORS 416.010 to 416.260. For purposes of ORS 416.010 to 416 260

(1) "Dependent" means any of those persons in addition to a spouse

(a) Whom the relative has a legal obligation to support,

(b) Who received his chief support from the relative during the preceding calendar year,

(c) Who is under 18 years of age, or is 18 years or over and is regularly attending an institution of learning as a full-time student, or is 18 years or over but is not self-supporting due to a physical or mental handicap; and

(d) Who is under 18 years of age and whose gross income for the preceding calendar year was $600 or less, or is 18 years of age or over and whose gross income for the preceding calendar year was $1,200 or less and who is regularly attending an institution of learning as a full-time student

(2) "Gross annual income" means the adjusted gross income as defined by the federal Internal Revenue Code of 1954, as amended, as determined by the appropriate state or federal income tax return filed for the subject year (or, if such return has not been filed or is not available in the files of the Department of Revenue, the return filed for the preceding year) plus any nontaxable interest, excluded income, or exempt income not included in the adjusted gross income of the relative, less the amount paid by the responsible relative during the period covered by such state income tax return for medical and hospital expenses of the responsible relative, his spouse and those persons who are listed as dependents of the responsible relative on such income tax return, but amounts paid for such medical and hospital expenses may be subtracted only to the extent that they were not included as part of the monthly contributions required by ORS 416 061. A separate income tax return shall constitute prima facie evidence of the gross income and number of dependents of the individual making it; a joint income tax return of husband and wife shall constitute prima facie evidence of the gross income and number of dependents of the husband or wife, or both.

(3) A "needy person" is one who is eligible for public assistance under the laws of the state.

(4) "Relative" or "relatives" mean the living husband, wife, father, mother, son or daughter 21 years of age or over of an applicant for or a recipient of public assistance.

(5) "Total cost" means the total amount of public assistance of any type furnished by the Adult and Family Services Division to a recipient for a given period [1961 c 605 §2, 1969 c 597 §250, 1971 c 407 §1]

416.020 Investigation of financial condition of relatives of applicant for public assistance. (1) Upon making application for public assistance, each applicant shall provide the Adult and Family Services Division with the names and current addresses, to the extent known to the applicant, of the applicant's living relatives as defined in ORS 416 010 (4) The applicant shall agree to provide information under oath and shall consent to investigation on the applicant's behalf of any person whose income and financial condition is at issue

(2) Upon receipt of an application for public assistance, the division, in addition to duties otherwise imposed and acting without unnecessary delay and with diligence, shall investigate the facts relating to the income and financial condition of the applicant's living relatives. In making such investigation the division shall give each of the applicant's relatives 18 years of age or over written notice of such application and the possibility of the relative's present or future liability under ORS 416 061 Such notice shall include the information that it is given pursuant to ORS 416 010 to 416 260 and a copy of such notice shall be sent to the applicant No liability for support of a needy person will be imposed prior to the mailing of written notice to the relative's last-known address Receipt of the notice by the relative is not a condition precedent to the imposition of liability under ORS 416.061 or the use of any remedy provided by law to enforce such liability The division may require statements under oath from the applicants and from any such person whose income and financial condition is at issue The results of such investigation shall be filed at the headquarters office of the Adult and Family Services Division [Formerly 411 410, 1971 c 480 §3, 1971 c 779 §49]

416.030 Certain relatives exempt from liability for support. (1) Upon receipt of the report of the investigation referred to in ORS 416 020, the Adult and Family Services Division may make such further investigation of the matter as it may deem necessary to ascertain the facts in relation thereto.

(2) No liability for the support of a needy person shall be imposed under the provisions of ORS 416 010 to 416 260 upon.

(a) A living relative of such needy person during any period when a court order or decree, entered in a proceeding other than a proceeding under ORS 416.010 to 416.260, is in effect, which requires the relative to pay a sum of money for the support of that person.

(b) A living relative of such needy person during any period when the relative is subject to or exempt from support under ORS 179 610 to 179.770.

(c) The child of a needy person if, during the minority of the child, such person wilfully deserted or abandoned the child, or, by expulsion or cruelty, drove the child from the parental home, or, without good cause, was responsible for the child's being "dependent" as defined by ORS 418.205 (2)

(d) The child of a needy person, if, during the minority of the child, such person is committed by order of the court to a state institution for the mentally ill or mentally deficient. [Formerly 411 420, 1967 c 549 §7, 1971 c 125 §1, 1971 c 750 §5]

416.035 Exemption of relatives whose liability under other law terminated. Notwithstanding any other provisions of ORS 416.010 to 416.260, no liability shall be imposed upon any relative for the support of a needy person after such relative's responsibility therefor has been or would have been terminated under the provisions of ORS 179.635 (1971 Replacement Part) had such needy person continued to be a resident of a state institution for the mentally deficient. [1971 c 750 §2]

416.040 Annual financial statement; statement of recipient's relatives; effect of failure to file. (1) By April 15 of each year each relative of a recipient who received public assistance in the preceding calendar year shall file with the Adult and Family Services Division for the preceding year a sworn statement on a form provided by the division of the relative's gross annual income as defined in ORS 416.010 (2), along with such other information as the division considers necessary to assist in making a determination of the relative's future ability to contribute to the support of the applicant or recipient.

(2) The division may extend by 90 days the time for filing of the statement required in subsection (1) of this section.

(3) If the responsible relative fails to file a statement by the date specified under subsection (1) or (2) of this section or files a return which is so contradictory to the report and investigation under ORS 416.020 and 416.030 as to appear not to have been made in good faith, the division may estimate the gross annual income of the relative upon the basis of the information available from the report, from investigation and from the Department of Revenue as provided in ORS 416 230 (1977 Replacement Part)

(4) The statement referred to in subsection (1) of this section shall relate to such matters and information of the type referred to in ORS 411.650 (1)(a) and (b) as may be prescribed by the division or required by the division in any case [1961 c 605 §6, subsection (4) enacted as 1963 c 499 §8]

416.050 Determination of relative's liability for support contributions. (1) Upon receipt of the statement required under ORS 416.040 or the reports under ORS 416.020 and 416.030, the division shall make a determination of the liability of the relative for contributions required by the relatives' contribution scale in ORS 416 061

(2) In determining the ability to contribute, the division may consider the financial circumstances of the relative and, in unusual cases, may permit a contribution of less than the amount fixed in the relatives' contribution scale.

(3) If the relative fails to file a statement or files a contradictory statement as described in ORS 416.040 (3), the division shall, on the basis of its estimate of the relative's income, make a determination of the liability of the relative for contributions required by the relatives' contribution scale. [1961 c 605 §7]

416.055 Proration of liability among liable relatives. Whenever there is more than one relative who is determined liable for contribution under the scale in ORS 416.061, or determined liable as a result of any proceeding under ORS 416 120 and 416 130 and the total individual liability of such relatives exceeds total cost, the payments required of such relatives shall be prorated among such relatives Each such relative shall be liable to the extent that the ratio of his liability bears to the total liability of all such relatives. [1971 c 480 §2]

416.060 [Formerly 411 425, repealed by 1971 c 651 §1 (416 061 enacted in lieu of 416 060)]

416.061 Monthly liability schedule; contribution from other relatives. (1) The living relatives of any needy person are hereby made liable to such person for monthly contributions of money not to exceed total cost in accordance with the following relatives' contribution scale:

RELATIVES' CONTRIBUTION SCALE

Gross annual income of responsible relatives in one family in dollars		Number of persons dependent upon income									
		1	2	3	4	5	6	7	8	9	10
Over	But not over	MONTHLY PAYMENTS REQUIRED (in dollars)									
6,500	7,000	26	0	0	0	0	0	0	0	0	0
7,000	7,500	32	13	0	0	0	0	0	0	0	0
7,500	8,000	39	20	0	0	0	0	0	0	0	0
8,000	8,500	46	26	13	0	0	0	0	0	0	0
8,500	9,000	52	32	20	0	0	0	0	0	0	0
9,000	9,500	59	39	26	13	0	0	0	0	0	0
9,500	10,000	65	45	32	20	0	0	0	0	0	0
10,000	10,500	71	52	39	26	13	0	0	0	0	0
10,500	11,000	78	59	45	32	20	0	0	0	0	0
11,000	11,500	85	65	52	39	26	13	0	0	0	0
11,500	12,000	91	71	59	45	32	20	13	0	0	0
12,000	12,500	97	78	65	52	39	26	20	13	0	0
12,500	13,000	104	85	71	59	45	32	26	20	13	0
13,000	13,500	110	91	78	65	52	39	32	26	20	13
13,500	14,000	117	97	85	71	59	45	39	32	26	20
14,000	14,500	131	111	99	85	73	59	53	46	40	34
14,500	15,000	145	125	113	99	87	73	67	60	54	48
15,000	15,500	159	139	127	113	101	87	81	74	68	62
15,500	16,000	173	153	141	127	115	101	95	88	82	76
16,000	16,500	187	167	155	141	129	115	109	102	96	90
16,500	17,000	208	188	176	162	150	136	130	123	117	111
17,000	17,500	229	209	197	183	171	157	151	144	138	132
17,500	18,000	250	230	218	204	192	178	172	165	159	153
18,000	18,500	271	251	239	225	213	199	193	186	180	174
18,500	19,000	292	272	260	246	234	220	214	207	201	195
19,000	19,500	Total Cost	293	281	267	255	241	235	228	222	216
19,500	20,000	Total Cost	Total Cost	302	288	276	262	256	249	243	237
20,000	20,500	Total Cost	Total Cost	Total Cost	309	297	283	277	270	264	258
20,500	21,000	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	304	299	291	285	279
21,000	21,500	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	306	300
21,500	22,000	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost	Total Cost

(2) When any living relative is required to contribute according to the scale in subsection (1) of this section, he may compel contribution from any other living relative or relatives liable under ORS 416.010 to 416.260.

(3) If the relative and his spouse each has income with respect to the calendar year during which public assistance is furnished and they jointly or severally owe a duty of support to one or more persons for whom the relative may not provide the chief support because of the combined income, the relative is still entitled to claim that number of dependents nearest the whole number obtained by dividing the relative's gross annual income by the combined gross annual income of the relative and his spouse and multiplying the quotient by the number of dependents for whose support they are jointly or severally liable [1971 c 651 §2 (enacted in lieu of 416 060)]

416.070 Grant of assistance as prima facie evidence of need; findings prima facie correct. (1) In all administrative and judicial proceedings under ORS 416.010 to 416.260, the grant of public assistance by the Adult and Family Services Division to a recipient shall be prima facie evidence that such person does not have income or resources sufficient to provide himself with food, clothing, shelter and such other essentials as are necessary to sustain life and as are compatible with decency and good health.

(2) The findings of the examiner or referee, as reviewed by the division, and in the absence of any showing of bad faith by the division or the examiner or referee, shall be prima facie correct in any subsequent judicial proceedings [1961 c 605 §16]

416.080 Liability of relative does not cut off assistance; consent of recipient to recover from relative. The liability of a relative to contribute to the support of a recipient of public assistance established by ORS 416.061 is not grounds for denying or discontinuing public assistance to any person. However, by accepting such public assistance, the recipient thereof shall be deemed to consent to the recovery of an amount equal thereto from any responsible living relative by the division, as provided in ORS 416.260. [Formerly 411 440 and then 411 428]

416.090 Needy person has cause of action against relatives for support. Each needy person in Oregon has a cause of action at law against any living relative or relatives referred to in ORS 416 020 for the monthly contribution to his support established by ORS 416 030 and 416.061. In any such action at law, judgment may be entered for all accumulated contributions for which defendant is liable under ORS 416.061. [Formerly 411 450 and then 411 434]

416.100 Division is subrogated to right to prosecute needy person's cause of action. The Adult and Family Services Division shall be subrogated to the right of each needy person who is a recipient of public assistance in this state to prosecute an action at law arising under ORS 416.090 against any living relative of such recipient. [Formerly 411 460 and then 411 438]

416.110 Time within which proceedings under ORS 416.100 to 416.130 must be commenced. (1) Any action or proceeding by the Adult and Family Services Division as provided in ORS 416.100 to 416.130 for the enforcement of any claims arising after January 1, 1959, shall be commenced within three years from the first day of the month during which the public assistance sought to be recovered by the division was paid to the needy person, and any warrant issued by the division for the enforcement of a final decision of the division shall be filed within one year from the date upon which such decision is rendered, or within one year from the date the circuit court or Court of Appeals decides an appeal from such decision.

(2) A proceeding commenced under ORS 416.120 and 416.130 shall be deemed to commence when the notice required by ORS 416.120 is delivered to the relative. [Formerly 411 441, 1979 c 562 §14, 1983 c 740 §141]

416.120 Notice to relative of contribution due; hearing of relative's objections. (1) After having made a determination of liability of a relative pursuant to ORS 416.010 to 416.030, 416 040, 416.050 and 416.061 to 416.100, the Adult and Family Services Division may, in lieu of bringing an action at law on a theory of subrogation under ORS 416 100, give notice to the responsible relative by certified mail at his last-known address that a contribution pursuant to the scale provided in ORS 416.061 is due and payable to the division for aid given to the needy person and that the relative may request in writing within 30 days of mailing of the notice a hearing on objections to his financial responsibility at a time and place, in the county where the relative resides, as specified by the division.

(2) The hearing shall be held before an examiner or referee, appointed by the division, whose decision is subject to review by the division. The hearing shall be subject to ORS

183.310 to 183 550. The relative sought to be held responsible shall be given notice of the hearing by certified mail or personal service at least 20 days prior to the hearing [Formerly 411 442, subsection (4) enacted as 1961 c 605 §15, 1971 c 734 §46]

416.130 Decision after hearing; notice to relative. If the evidence at the hearing under ORS 416.120 or, in case the relative fails to appear at the hearing, the evidence pursuant to any investigation under ORS 416.020 and 416.030, does not disclose sufficient reason why, in the opinion of the division, the relative should not be held responsible in accordance with the contribution scale in ORS 416.061, the division shall notify the relative by certified mail at his last-known address of its final decision within 10 days after making such decision. [Formerly 411 444]

416 140 [Formerly 411 446, repealed by 1971 c 734 §21]

416.145 Judicial review. (1) Judicial review of the decision of the Adult and Family Services Division shall be as provided in ORS 183.310 to 183.550. Within 30 days after receipt of a petition for judicial review, the division shall make available without cost to the petitioner the record at any hearing under ORS 416.010 to 416.260.

(2) If the decision of the Adult and Family Services Division is sustained on appeal, the Court of Appeals shall enter an order stating the amount found due The Adult and Family Services Division may sue on such order without issuance of the warrant required by ORS 416.170. [1971 c 734 §48]

Note: 416 145 was enacted into law by the Legislative Assembly and added to and made a part of ORS chapter 416 but not to any series therein by legislative action See Preface to Oregon Revised Statutes for further explanation

416.150 [1961 c 605 §13, repealed by 1971 c 734 §21]

416 160 [1961 c 605 §14, repealed by 1971 c 734 §21]

416.170 Issuance of warrant to collect contribution; filing; entry in lien record. (1) If the relative fails to appeal a final decision of the Adult and Family Services Division within the time specified in ORS 416 145 or if the court, on appeal, decides in favor of the division, the division may cause to have issued in its name by such person as it designates a warrant directed to the sheriff of any county of the state commanding the sheriff to levy upon and sell the real and personal property of the relative found within that county, for the payment of the amount of the contribution and the cost of executing the warrant, and to return such warrant to the division and pay to it the money collected by virtue thereof by a time to be therein specified, not less than 60 days from the date of the warrant

(2) The sheriff shall, not later than five days after the receipt of the warrant, record with the clerk of the county a copy thereof. Thereupon, the clerk shall enter in the County Clerk Lien Record the name of the relative mentioned in the warrant, and the amount of the contribution due or portion thereof for which the warrant is issued and the date when such copy is recorded. [Formerly 411 448, 1975 c 146 §5, 1983 c 696 §19]

416.180 Lien of warrant; execution of warrant; effect of return of warrant unsatisfied. (1) The amount of a warrant docketed under ORS 416 170 shall become a lien upon the title to and interest in real property or personal property of the relative against whom it is issued in the same manner as a judgment duly docketed in the office of the county clerk. The sheriff shall then proceed upon the warrant in all respects, with like effect and in the same manner provided by law in respect to executions issued against property upon judgment of a court of record, and shall be entitled to the same fees for his services in executing the warrant, to be added to and collected as a part of the warrant liability.

(2) If a warrant is returned not satisfied in full, the Adult and Family Services Division shall have the same remedies to enforce the claim for contributions against the relative as if the people of the state had recovered judgment against the relative for the amount of the contribution. [Formerly 411 452]

416.190 Release of lien when sale of property would not satisfy lien in whole or in part. (1) Any person having a lien upon or any interest in real estate against which the amount of the warrant provided for in ORS 416 170 has become a lien, notice of which has been recorded in accordance with the laws of this state prior to the filing of the warrant, may request the Adult and Family Services Division in writing to release the real estate from the lien of the warrant

(2) If, upon such request, the division finds that a sale of the property would not result in satisfaction of the contributions due in whole or in part, the division shall execute a release of the lien as to such property and such release shall be conclusive evidence of the extinguishment of the lien as to that property

(3) If the division fails to act upon a request for release of lien under this section within 60 days from the date of such request, any person having a lien upon or interest in the property

against which the warrant has become a lien may make the division a party to any proceeding brought to enforce any interest in or lien upon such real property, and the determination of the court in such proceeding shall be conclusive and binding upon the division and the State of Oregon. [Formerly 411 454]

416.200 Release of lien in other cases. In addition to the release of lien provided for in ORS 416.190, the Adult and Family Services Division may execute releases in the following cases which releases shall be conclusive evidence of the extinguishment of the lien:

(1) If the division finds that the liability for the amount of the contribution, together with all costs in respect thereof has been satisfied, or

(2) If the division finds that the fair market value of that part of such property remaining subject to the lien is at least double the amount of the liability remaining unsatisfied in respect of such contribution and the amount of all prior liens upon such property; or

(3) If there is furnished to the division a bond, in such form and with such security as the division may deem sufficient, conditioned upon the payment of the amount of the warrant, together with all interest in respect thereof, within 60 days after the issuance of such release; or

(4) If there is paid to the division in partial satisfaction of the amount of the warrant an amount not less than the value, as determined by the division, of the interest of the State of Oregon in the part of the property to be so discharged. In determining such value, the division shall give consideration to the fair market value of the part of the property to be so discharged and to such liens thereon as have priority to the lien of the State of Oregon. [Formerly 411 456]

416.210 Compromise agreements with relatives. ORS 416.061 and 416.120, 416 130 and 416.170 to 416.250 shall not be construed to prevent the Adult and Family Services Division from entering into a compromise agreement with the responsible relative at any state of a proceeding under ORS 416.120, 416.130 and 416.170 to 416.250. [Formerly 411 458]

416.220 Support order by court; enforcement and modification of order. (1) In addition to the remedy provided in ORS 416.090, the circuit court of the county in which an applicant for or recipient of public assistance resides may, upon petition of the applicant or recipient, order that a relative pay an amount each month for the support of the applicant or recipient. Pending the final order, the court may enter such temporary order as may be necessary for support of the applicant or recipient. In making any support order under this section the court cannot exceed the amounts specified in ORS 416.061.

(2) An order of support entered under subsection (1) of this section shall be enforceable by contempt proceedings.

(3) If an applicant for or recipient of public assistance requires legal aid in exercising his rights under this section or under ORS 416.090, the Adult and Family Services Division or the Support Enforcement Division of the Department of Justice shall provide necessary legal aid.

(4) The court entering an order under subsection (1) of this section shall retain jurisdiction over the person and may modify its orders upon a showing that the conditions under which the original order was entered have changed so that the original order creates a hardship on the relative or on the person for whose benefit the order was made. The court may modify its orders upon the request of the relative, the person for whose benefit the order was made or the division. [1961 c 605 §19, 1971 c 779 §50]

416.230 [Formerly 411 462, 1971 c 407 §2, repealed by 1979 c 690 §19]

416.240 Proceeding against one relative not to preclude action against others. A proceeding under ORS 416.010 to 416.260 against any relative of a needy person is not an exclusive remedy of the Adult and Family Services Division and does not preclude the division from taking action against any other relatives believed to be financially able, if full recovery of contributions cannot be made from any one relative. [Formerly 411 464]

416.250 Additional remedy. ORS 416 120, 416 130 and 416.170 to 416.250 is intended to be a remedy for collection of contributions from responsible relatives of needy persons additional to or as an alternative for the action provided in ORS 416.090, 416.100 and 416.260. [Formerly 411 466]

416.260 Distribution of amount recovered from relative of recipient of public assistance. The Adult and Family Services Division may, either in its own name or in the name of the recipient of public assistance to whose right of action it has been subrogated, commence and prosecute to final conclusion such legal proceedings as may be deemed necessary for the amount of the relatives' required contribution established by ORS 416.061. From the amount collected as a result of such legal proceedings or as a result of a warrant proceeding under ORS 416.120, 416.130 and 416.170 to

416.210, the division shall deduct the full amount previously paid as public assistance under the laws of this state and the remainder thereof, after deducting the costs of any proceeding, shall be delivered to the recipient. The amount of any previously paid public assistance recovered in any proceeding shall be distributed by the division to the United States Government and to the Public Welfare Account, as their interests may appear. [Formerly 411 470, 1969 c 45 §2, 1971 c 418 §13]

416.270 Payments by relative based on estimated income for current year. (1) A relative referred to in ORS 416.010 may make monthly payments on his liability for the current year to the Adult and Family Services Division. The relative may compute his monthly payments by applying the table provided in ORS 416.061 to his estimated income for the current year. The moneys received by the division shall be paid into the Relative Liability Contribution Fund which hereby is created and shall be retained in that fund until a final determination in accordance with ORS 416.010 to 416.260 is made of the relative's liability for that year. The Relative Liability Contribution Fund hereby is continuously appropriated for the purposes of this section.

(2) In the event that the sum of these payments is greater than the liability of the relative for that year, as computed in accordance with ORS 416.010 to 416.260, the division shall apply the excess first upon any liability of the relative to the division remaining from prior years. If the excess exceeds any prior liability, the balance of the sum of the payments after the current and prior years' liability has been deducted, shall be retained in the Relative Liability Contribution Fund and credited against the relative's liability for the next year unless the relative elects, in writing, to receive the balance. If the relative so elects, the division shall pay the relative out of the Relative Liability Contribution Fund the balance of the sum of his payments after the relative's current and prior years' liability has been deducted.

(3) If the liability of the relative for the current year, as finally determined, in accordance with ORS 416.010 to 416.260, is greater than the sum of the payments made by him for that year, the division shall proceed to collect the remaining liability in accordance with the provisions of ORS 416.010 to 416.260.

(4) Any amount collected by the Adult and Family Services Division under this section which is retained in the Relative Liability Contribution Fund after the deduction of refunds, if any, shall be distributed to the United States Government, the county and to the Public Welfare Account as their interests may appear, except for any amount retained as a credit against the relative's liability for the next year which shall not be distributed until a final determination, in accordance with ORS 416.010 to 416.260, of the relative's liability for that year is made. [Formerly 411 474]

416.280 Certain recovery under ORS 416.010 to 416.270 prohibited. The amounts of assistance provided after July 1, 1973, pursuant to ORS chapters 411, 412 and 413 shall not be recovered by the division under ORS 416.010 to 416.270. [Formerly part of 414 105]

RECOVERY FROM ESTATES

416.310 Estate of deceased person liable for aid received from counties; relatives not relieved from obligation of support. (1) Except as otherwise provided by ORS 413.200, the estate of every deceased person who during his or her lifetime received aid from or whose burial expenses have been paid by any county, other than aid received as old age assistance or pursuant to ORS 418.040, 444.120 or 444.220, is liable for the actual cost of such aid so rendered or the actual expenses of such burial. The county shall have a just and valid claim against such estate therefor.

(2) Nothing in this section relieves the parents, children, brothers or sisters of any poor person from their obligation to support such person, or prevents the county court from recovering for such support. [Formerly 411 480]

416.320 Manner of approval and payment of county claims against estate. All claims of the type mentioned in ORS 416.310 shall be itemized and verified by the county clerk and presented by the county clerk to the administrator or executor of the estate; except that the claims shall be verified by the county accountant in counties having a county accountant authorized by ORS chapter 210. The claims shall be approved and paid by the administrator or executor in the manner and in the order of preference provided by law for approval and payment of claims and charges against estates of deceased persons. [Formerly 411 490, 1983 c 310 §19]

416.330 [Formerly 411 500, repealed by 1983 c 537 §7]

416.340 Collection of claim against estate of deceased; waiver of claim. With respect to any claim which the Adult and Family Services Division may have against the estate of

a deceased person, the division may, subject to such terms as it may prescribe in any such case:

(1) Secure payment of such claim in whole or in part by the acceptance of assignments, conveyances, notes, mortgages and other transfers of property or interests therein

(2) Waive such claim to the extent that the Adult and Family Services Division finds that the enforcement thereof would tend to defeat the purpose of the public assistance laws. [1963 c 114 §2]

PARENTAL RESPONSIBILITY FOR DEPENDENT CHILDREN

416.400 Definitions for ORS 416.400 to 416.470. As used in ORS 107 085 and 416.400 to 416.470, unless the context requires otherwise.

(1) "Administrator" means the Administrator of the Support Enforcement Division, Department of Justice, or the administrator's authorized representative

(2) "Court" shall mean any circuit court of this state and any court in another state having jurisdiction to determine the liability of persons for the support of another person

(3) "Court order" means any judgment, decree or order of any court which orders payment of a set or determinable amount of support money

(4) "Debt" means the amount of money owed as child support pursuant to an Oregon court order

(5) "Department" means the Department of Human Resources.

(6) "Dependent child" means any person under the age of 18 who is not otherwise emancipated, self-supporting, married or a member of the Armed Forces of the United States. It also means any unmarried person between the ages of 18 and 21 who is not otherwise emancipated and who is a student regularly attending a course of vocational or technical training designed to train that person for gainful employment.

(7) "Director" means the Director of the Department of Human Resources or the director's authorized representative

(8) "Division" means the Support Enforcement Division of the Department of Justice.

(9) "Parent" means the natural or adoptive father or mother of a dependent child "Parent" also means stepparent when such person has an obligation to support a dependent child pursuant to Oregon law

(10) "Public assistance" means any money payments made by the department which are paid to or for the benefit of any dependent child, including but not limited to, payments made so that food, shelter, medical care, clothing, transportation or other necessary goods, services or items may be provided, and payments made in compensation for the provision of such necessities [1979 c 421 §1]

416.405 Policy. It is the public policy of this state that dependent children shall be maintained, as much as possible, from the resources of the parents, thereby relieving or avoiding, at least in part, the burden often borne by the general citizenry through public assistance programs. The existing remedies pertaining to family desertion and nonsupport of dependent children are to be augmented by the additional remedies provided in ORS 107 085 and 416 400 to 416 470 which are directed to the real and personal property resources of the responsible parents. These additional remedies are not in lieu of existing law. ORS 107.085 and 416.400 to 416 470 shall be liberally construed and administered to implement the policy stated in this section. [1979 c 421 §2]

416.410 Payments to dependent child as debt owed to department; subrogation to right of support action; limitations on recovery right. (1) Except as provided in subsection (3) of this section, any payment of public assistance by the department made to or for the benefit of any dependent child, including any payment made for the benefit of the caretaker of the child, creates an obligation, to be called "state debt," which is due and owing to the department by the parents of the dependent child in an amount equal to the amount of public assistance so paid; provided, however, that.

(a) Where there has been an Oregon court order directed to a parent, the state debt of that parent shall be an amount equal to the amount of public assistance paid up to the full amount of arrearages under the order, and shall thereafter be limited to and accrue at a rate equal to the payments ordered by the court.

(b) Where there has been no court order, the administrator may at any time set or reset the amount of state debt accrued and accruing.

(2) The department shall be subrogated to the right of the dependent child or person having legal or physical custody of such child to prosecute or maintain any support action or execute any administrative remedy existing under the laws of the State of Oregon to obtain reimbursement of moneys thus expended. If a court order

enters judgment for or requires payment of an amount of support to be paid by a parent, the department shall be subrogated to the debt created by such order, and such court order shall be deemed to be in favor of the department.

(3) Subject to the qualification noted in this subsection, a state debt under this section shall not be incurred by nor at any time collected from a parent who is the recipient of general or public assistance as defined in ORS 411.010 for the period during which such parent is eligible for and receiving such assistance. The exclusion from liability provided by this subsection is limited to those parents who receive such assistance on their own behalf, and does not include parents who receive assistance payments solely on behalf of other people.

(4) Creation of or exemption from a state debt under this section shall not modify any rights which the department has or may obtain under common or statutory law, including but not limited to those obtained under an assignment of support rights executed pursuant to ORS 418.042. The department's right to recover and retain unreimbursed public assistance is not modified by creation or an exemption from a state debt under this section. [1979 c 421 §3]

416.415 Notice and finding of financial responsibility; contents; hearing; order. (1) At any time after the department is assigned support rights or a public assistance payment is made, the administrator may, if there is no court order, issue a notice and finding of financial responsibility. Such notice shall be served upon the parent in the manner prescribed for service of summons in a civil action.

(2) The notice shall include·

(a) A statement of the name of the caretaker relative or agency and the name of the dependent child for whom support is to be paid,

(b) A statement of the monthly support for which the parent shall be responsible;

(c) A statement of the state debt accrued and accruing, based upon the payment of public assistance, and the monthly payment to be made on the state debt which has accrued,

(d) A statement that if the parent desires to discuss the amount of support that the parent should be required to pay, the parent may, within 10 days after being served, contact the division office which sent the notice and request a negotiation conference. If no agreement is reached on the monthly support to be paid, the administrator may issue a new notice and finding of financial responsibility, which may be sent to the parent by regular mail addressed to the parent's last-known address, or if applicable, the parent's attorney's last-known address,

(e) A statement that if the parent objects to all or any part of the notice and finding of financial responsibility and no negotiation conference is requested, then within 20 days of the date of service the parent must send to the division office issuing the notice a written response which sets forth any objections and requests a hearing, that if a negotiation conference is requested, then the parent shall have 10 days from the date set for the negotiation conference or 20 days from the date of service of the original notice, whichever is later, to send a hearing request; and that if the administrator issues a new notice and finding of financial responsibility, then the parent shall have 10 days from the date of issuance of the new notice or 20 days from the date of service of the original notice, whichever is later, to send a hearing request;

(f) A statement that if such a timely response is received by the appropriate division office, the parent shall have the right to a hearing to be held in circuit court, and that if no timely written response is received, the administrator may enter an order in accordance with the notice and finding of financial responsibility;

(g) A statement that as soon as the order is entered, the property of the parent will be subject to collection action, including but not limited to, wage withholding, garnishment and liens and execution thereon;

(h) A reference to ORS 107 085 and 416.400 to 416.470,

(i) A statement that the parent is responsible for notifying the division of any change of address or employment,

(j) A statement that if the parent has any questions, the parent should telephone or visit the appropriate division office or consult an attorney; and

(k) Such other information as the administrator finds appropriate.

(3) The statement of monthly future support required under paragraph (b) of subsection (2) of this section is to be computed as follows:

(a) If there is sufficient information available concerning the parent's financial and living situation, the scale and formula provided for in ORS 416 420 shall be used, or

(b) If there is insufficient information available to use the scale and formula, an allegation of ability to pay shall be the basis of the statement.

(4) The statement of state debt accrued and accruing in favor of the department required under paragraph (c) of subsection (2) of this

section shall be computed pursuant to ORS 416.410 (1) and the principles of equity.

(5) The parent shall have time to request a hearing as outlined in paragraph (e) of subsection (2) of this section. The time limits may be extended by the administrator and are nonjurisdictional.

(6) If a timely written response setting forth objections and requesting a hearing is received by the appropriate division office, a hearing shall be held in circuit court.

(7) If no timely written response and request for hearing is received by the appropriate division office the administrator may enter an order in accordance with the notice, and shall specify:

(a) The amount of monthly support to be paid, with directions on the manner of payment;

(b) The amount of state debt accrued and accruing in favor of the department,

(c) The name of the caretaker relative or agency and the name and birthdate of the dependent child for whom support is to be paid; and

(d) A statement that the property of the parent is subject to collection action, including but not limited to, wage withholding, garnishment and liens and execution thereon.

(8) The parent shall be sent a copy of the order by regular mail addressed to the parent's last-known address, or if applicable, the parent's attorney's last-known address The order is final, and action by the administrator to enforce and collect upon the order, including arrearages, may be taken from the date of issuance of the order. [1979 c 421 §4]

416.420 Guides for determining amount of support for dependent child. (1) In order to assist in determining the amount that a parent should contribute toward the support of a dependent child, the division shall establish a scale and formula for determining minimum support obligations.

(2) In establishing the scale and formula, the division shall:

(a) Include consideration of gross income of the parent;

(b) Authorize an expense deduction for determining net income,

(c) Designate other available resources to be considered, including real and personal property;

(d) Consider the amount of assistance which would be paid to the dependent child under the full standard of need of the department's plan for aid to dependent children;

(e) Consider the reasonable necessities of the parent;

(f) Specify the circumstances which should be considered in raising or reducing the minimum support obligation from the amount established on the scale, including but not limited to:

(A) Earnings potential of the parent;

(B) The parent's ability to borrow;

(C) Existence of other dependents of the parent;

(D) Special hardships of the parent; and

(E) Needs of the child; and

(g) Insure that the dependent child for whom support is sought benefits from the income and resources of the parent on an equitable basis in comparison with any other dependent children of the parent. [1979 c 421 §8]

416.425 Modification of financial responsibility order. (1) (a) At any time after the entry of an order by the administrator pursuant to ORS 416.415, the obligated parent or the party holding the support rights may move for the existing order to be modified. Such motion shall be in writing, shall set out the reasons for modification and shall state the address of the moving party. The motion shall be served by the moving party in the manner prescribed for service of summons in a civil action upon the obligated parent or the party holding the support rights, as appropriate. In addition, if the support rights are assigned to the State of Oregon a true copy of the motion shall be mailed by the moving party by certified mail to the custodial parent or caretaker relative at the last-known address of that person. A true copy of the motion and the original return of service shall be mailed or delivered to the administrator, who shall certify the matter to the circuit court for a hearing within 30 days from the date of receipt unless a stipulated agreement between the parties is reached. The administrator shall send to the parties and the custodial parent or caretaker relative, by regular mail, a notice of the certification to the circuit court.

(b) If the order was entered by the circuit court pursuant to ORS 107.085 and 416.400 to 416.470, the obligated parent or the party holding the support rights may file a motion for modification with the court. Such motion shall be in writing, shall set out the reasons for modification and shall state the address of the moving party. The motion shall be served by the moving party in the manner prescribed for service of summons in a civil action upon the obligated parent or the party holding the support rights, as appropriate. In addition, if the support rights are

assigned to the State of Oregon, a true copy of the motion shall be mailed by the moving party by certified mail to the custodial parent or caretaker relative at the last-known address of that person A true copy of the motion and a copy of the return of service shall be mailed to the administrator

(2) A motion for modification made pursuant to this section shall not stay the administrator from enforcing and collecting upon the existing order unless so ordered by the court.

(3) Except as otherwise provided by ORS 107 085 and 416.400 to 416.470, the only support payments which may be modified are the monthly future support payments.

(4) The party requesting modification shall have the burden of showing a change of circumstances and good cause for modification. [1979 c 421 §5]

416.430 Establishing paternity of child; certification of paternity issue to circuit court. (1) The administrator may establish paternity of a child in the course of a support proceeding under ORS 107.085 and 416 400 to 416.470 when both parents sign sworn statements that paternity has not been legally established and that the male parent is the father of the child The administrator may enter an order establishing paternity and file a copy thereof with the clerk of the court. The clerk shall docket the order in the judgment docket. Any order so entered and docketed establishes legal paternity for all purposes. The Vital Statistics Unit of the Health Division of the Department of Human Resources shall prepare a new birth certificate in the new name, if any, of the child The original birth certificate shall be sealed and filed and may be opened only upon order of a court of competent jurisdiction.

(2) If the parent timely asserts the defense of nonpaternity, the administrator shall certify the matter to the circuit court for further proceedings [1979 c 431 §7, 1983 c 709 §44]

416.435 Certification of order to circuit court; hearing; default upon failure to appear. (1) When a hearing is timely requested or paternity is timely denied, or the administrator receives a motion to modify accompanied by an original return of service, the administrator shall certify the matter to the circuit court in the county in which the order has been filed pursuant to ORS 416.440, or if no such order has been filed, then to the circuit court in the judicial district where the parent or dependent child resides However, if there is no existing court file, and there is an Oregon juvenile court case regarding the dependent child, the matter may be certified to the county which has jurisdiction of the juvenile court case.

(2) If the matter has not been heard previously by the circuit court, the certification shall include true copies of the notice and finding of financial responsibility or notice of state debt accrued and accruing, the return of service, the written objections and request for hearing, and true copies of any administrative orders previously entered If applicable, it shall include the motion for modification and return of service for such motion, and any other relevant papers

(3) The court shall set the matter for hearing and notify the parties of the time and place of hearing

(4) The circuit court shall consider as a guide the scale and formula provided for in ORS 416.420 in establishing or modifying the monthly support and the amount of state debt accrued and accruing.

(5) If a party fails to appear at the hearing, upon a showing of proper notice to that party, the court may find that party in default and enter an appropriate order. [1979 c 421 §6]

416.440 Filing and docketing of financial responsibility order; order effective as circuit court decree. A true copy of any order entered by the administrator pursuant to ORS 416.415, 416.425 or 416.430 along with a true copy of the return of service, if applicable, may be filed in the office of the clerk of the circuit court in the county in which either the parent or the dependent child resides. Upon receipt, the clerk shall docket the order in the circuit court judgment docket. Upon docketing, the order shall have all the force, effect and attributes of a docketed order or decree of the circuit court, including but not limited to lien effect, ability to be renewed pursuant to ORS 18 360, and ability to be enforced by supplementary proceedings, contempt of court proceedings, writs of execution and writs of garnishment. [1979 c 421 §9, 1983 c 696 §20]

416.445 Enforcement of financial responsibility order. (1) In addition to any other remedy provided by law for the enforcement of support, if an order has been entered by the administrator and an arrearage exists on the payments required, the administrator may upon the application of the party holding the support rights, issue an order directing any employer or trustee, including but not limited to a conservator, of the parent to withhold and pay over to the department or the clerk of the court, whichever

is appropriate, money due or to become due such parent in an amount not to exceed.

(a) One-fourth of the disposable earnings as defined in ORS 23 175 due or becoming due the parent at each pay period, until

(A) All arrearages, interest thereon, and support enforcement fees provided for in ORS 23.787 are paid in full, and

(B) All further amounts coming due before the completion of payments required by subparagraph (A) of this paragraph are also paid in full.

(b) Thereafter at each pay period, the amount ordered to be paid for support, but not more than one-fourth of the disposable earnings as defined in ORS 23.175 due or becoming due the parent at each pay period

(2) (a) An order entered pursuant to this section shall recite the amount of all arrearages and fees due, together with interest, and the amount required to be paid as continuing support A copy of ORS 23 175 and 416.455 shall be appended to the order

(b) An order entered pursuant to this section shall be served on the employer or trustee in the manner prescribed for the service of summons in a civil action

(c) The department shall notify any employer or trustee upon whom such an order has been served whenever all arrearages and fees have been paid in full, and whenever for any other reason the amount required to be withheld and paid over to the department under the order as to future pay periods is to be reduced.

(d) If the parent's support obligation is required to be paid monthly and the parent's pay periods are at more frequent intervals, the employer or trustee may at the request of the parent and with the consent of the division withhold and pay over to the department, after all arrearages and fees have been paid in full, an equal amount at each pay period cumulatively sufficient to pay the monthly support obligation; otherwise the full amount of the obligation shall be withheld and paid from the parent's first pay periods each month, consistent with subsection (1) of this section

(3) An order issued under subsection (1) of this section shall be a continuing order and shall remain in effect and be binding upon any employer or trustee upon whom it is served until further order of the administrator.

(4) An order to withhold issued and served pursuant to this section shall have priority over any execution or garnishment subsequently served upon any employer or trustee of the parent

(5) No employer or trustee who complies with an order entered pursuant to this section or with the notice provided for in paragraph (c) of subsection (2) of this section shall be liable to the parent or to any other person claiming rights derived from the parent for wrongful withholding.

(6) An employer or trustee described in subsection (1) of this section who wilfully fails or refuses to withhold or pay the amounts as ordered under this section is subject to the penalties provided in ORS 23.777 (7).

(7) No employer shall discharge or refuse to hire an employe because of the entry or service of an order of withholding under this section. Any person who violates this subsection is subject to the penalties provided in ORS 23 777 (8). [1979 c 421 §10]

416.450 Preventing transfer of assets to evade compliance with order. If at any time subsequent to service, receipt or refusal of a notice pursuant to ORS 416.415, and prior to the entry of an order, the administrator reasonably believes that the parent is about to transfer, encumber, convey, sell, remove, secrete, waste or otherwise dispose of property which could be made subject to collection action to satisfy the state debt, the administrator may certify the matter to the circuit court, accompanied by a legal description of the property in question, in order to obtain a temporary restraining order directing that such property not be transferred, encumbered, conveyed, sold, removed, secreted, wasted or otherwise disposed of pending entry of a support order by the circuit court The administrator shall, in such cases, file in the case record an affidavit stating the reasons upon which such belief is founded If the parent furnishes a good and sufficient bond satisfactory to the court, the temporary restraining order shall be vacated. A certified copy of an order entered under this section may be recorded in the same manner as a notice of lis pendens under ORS 93 740 [1979 c 421 §11]

416.455 Establishment and collection of child support; rules. (1) In any individual case, commencing with the payment of public assistance by the department, the division may take action under ORS 107 085 and 416 400 to 416.470 to establish support orders and collect child support

(2) The division may make such rules and take such action as may be necessary or desirable for carrying out ORS 107.085 and 416.400 to 416.470. [1979 c 421 §12]

416.460 Supreme Court to provide for expeditious proceedings. The Supreme Court by administrative order shall provide, where necessary, for expeditious hearings on all matters referred to the circuit court pursuant to ORS 416.435 or 416.450. [1979 c 421 §13]

416.465 Relief from compliance with order. The court may, upon such terms as may be just at any time within one year after notice thereof, relieve a parent from an administrative order taken against that parent because of mistake, inadvertence, surprise or excusable neglect. [1979 c 421 §15]

416.470 Redetermination of amount of future support payments. (1) Within six months after the closing of the public assistance grant, and if public assistance is not being provided by the state, either the obligated parent or the party holding the right to receive the monthly support payments pursuant to ORS 107.085 and 416.400 to 416.470 may file a motion with the court requesting that the amount of the monthly future support payments be redetermined without reference to the present monthly support payments. Such motion shall be served by the moving party upon the other party in the manner prescribed for the service of summons in a civil action. A true copy of the motion and a copy of the return of service shall be mailed to the administrator.

(2) The only support payments which may be modified are the monthly future support payments. [1979 c 421 §16]

LIEN ON RECIPIENT'S CLAIM FOR DAMAGES FOR PERSONAL INJURIES

416.510 Definitions for ORS 416.510 to 416.610. As used in ORS 416.510 to 416.610, unless the context requires otherwise:

(1) "Action" means an action, suit or proceeding.

(2) "Applicant" means an applicant for assistance.

(3) "Assistance" means moneys paid by the Adult and Family Services Division to persons directly and moneys paid by the division to others for the benefit of such persons.

(4) "Claim" means a claim of a recipient of assistance for damages for personal injuries against any person or public body, agency or commission other than the State Accident Insurance Fund Corporation or Workers' Compensation Board.

(5) "Compromise" means a compromise between a recipient and any person or public body, agency or commission against whom the recipient has a claim.

(6) "Judgment" means a judgment in any action or proceeding brought by a recipient to enforce his claim.

(7) "Recipient" means a recipient of assistance.

(8) "Settlement" means a settlement between a recipient and any person or public body, agency or commission against whom the recipient has a claim.

(9) "Division" means the Adult and Family Services Division. [Formerly 411 552, 1969 c 203 §12]

416.520 Claim for damages for personal injuries not grounds for denying assistance. If any applicant or recipient has a claim for damages for personal injuries, the existence of such claim or any action to enforce such claim shall not be grounds for denying or discontinuing assistance to such applicant or recipient. [Formerly 411 554]

416.530 Notice to division of claim. When any applicant or recipient makes a claim or, without making a claim, begins an action to enforce such claim, he shall immediately notify the Adult and Family Services Division. If an applicant or recipient has given notice that he has made a claim, it shall not be necessary for him to give notice that he has begun an action to enforce such claim. The notification shall include the name and address of each person or public body, agency or commission against whom claim is made or action is brought. If claim is made or action is brought against a corporation, the address given in such notification shall be that of its principal place of business. If the applicant or recipient be a minor, his parents, legal guardian or foster parents shall give the notification required by this section. [Formerly 411 556]

416.540 Lien of division. (1) Except as provided in subsection (2) of this section and in ORS 416.590, the Adult and Family Services Division shall have a lien upon the amount of any judgment in favor of a recipient or amount payable to him under a settlement or compromise for all assistance received by such recipient from the date of his injury to the date of satisfaction of such judgment or payment under such settlement or compromise.

(2) The lien does not attach to the amount of any judgment, settlement or compromise to the extent of attorney's fees, costs and expenses

incurred by a recipient in securing such judgment, settlement or compromise and to the extent of medical, surgical and hospital expenses incurred by such recipient on account of the personal injuries for which he had a claim
[Formerly 411 558]

416.550 Procedure to perfect lien. (1) Upon receiving notice under ORS 416.530, to perfect its lien the Adult and Family Services Division shall:

(a) File a notice of lien, substantially in the form prescribed in ORS 416 560, with the recording officer of the county in which the person against whom claim is made or action is brought resides. If the claim or action be against a corporation, the notice of lien shall be filed with the recording officer of the county within the state in which such corporation has its principal place of business If the claim or action be against a public body, agency or commission, the notice of lien shall be filed with the recording officer of the county in which the public body, agency or commission has its main offices; and

(b) Prior to the date of satisfaction of the judgment or payment under the settlement or compromise, send a certified copy of the notice of lien by registered mail to each person or public body, agency or commission against whom claim is made or action is brought by the recipient

(2) Upon the filing of a notice of lien by the division, the recording officer shall enter the name of the injured person, the approximate date of the injury and the name of the division as lienor in the hospital lien docket provided for in ORS 87.575 and shall make an index thereto in the names of the injured persons and the division [Formerly 411 560]

416.560 Form of notice of lien. The form of the notice required by subsection (1) of ORS 416.550 shall be substantially as follows.

Notice is hereby given that the Adult and Family Services Division has rendered assistance to ————————, a person who was injured on or about the —— day of ——— in the city of ——— and State of ———, and the Adult and Family Services Division hereby asserts a lien to the extent provided in ORS 416 510 to 416.610, for the amount of such assistance upon any amount due and owing ———————— (name of injured person) under a judgment, settlement or compromise from ——— alleged to have caused such injuries and from any other person or public body, agency or commission liable for the injury or obligated to compensate the injured person on account of such injuries

Adult and Family Services Division
by ————————, Assistant Director.

State of Oregon,)
) ss
County
of ———)

I, ————————, being first duly sworn on oath say: That I am the Assistant Director for Adult and Family Services; that I have read the foregoing notice of lien and know the contents thereof and believe the same to be true.

————————

Subscribed and sworn to before me this —— day of ——— in the year of our Lord ———.

————————, Notary Public.

[Formerly 411 562, 1969 c 597 §251]

416.570 Notice to division when judgment rendered or claim settled; statement by division of amount of lien. Immediately after a judgment has been rendered in favor of a recipient or a settlement or compromise has been agreed upon, the person or public body, agency or commission bound by such judgment, settlement or compromise shall notify the Adult and Family Services Division After such notification the division shall send a statement of the amount of its lien to such person or public body, agency or commission by registered mail.
[Formerly 411 564]

416.580 Payment in satisfaction of lien. (1) After a notice of lien is filed in the manner provided in ORS 416.550 (2), any person or public body, agency or commission who makes any payment to the injured recipient, his heirs, personal representatives or assigns, or his or their attorneys, under a judgment, settlement or compromise without previously having paid to the Adult and Family Services Division the amount of its lien, shall be liable to the State of Oregon, for the use and benefit of the division for a period of 180 days after the date of such payment for the amount of such payment to the extent that the lien attached thereto under ORS 416 540.

(2) Any amount paid to the division in satisfaction of its lien shall be distributed by the division to the United States Government and the Public Welfare Account, as their interests may appear.

(3) If the recipient be a minor, no payments to the division in satisfaction of its lien and,

except to the extent of the fees, costs and expenses specified in ORS 416.540 (2), no payments to the recipient under a judgment, settlement or compromise shall be made until a hearing has taken place and the court has issued its order under ORS 416 590. [Formerly 411 566, 1969 c 45 §3]

416.590 Procedure where recipient is a minor. (1) If the recipient is a minor, after the date on which a judgment in his favor is rendered or settlement or compromise is agreed upon, his guardian or the conservator of his estate shall petition the court having probate jurisdiction in the county in which the guardian or conservator was appointed to determine the sum that will be needed for the minor's complete physical rehabilitation If the guardian or the conservator of the minor's estate fail to petition the court, any other interested person or public body, agency or commission may file the petition The lien of the Adult and Family Services Division provided for in ORS 416 510 to 416 610 shall not attach to the amount of the judgment, settlement or compromise to the extent of the sum needed for the rehabilitation Among other data, the petition shall contain the name and address of each person or public body, agency or commission liable to the minor under the judgment, settlement or compromise

(2) The court shall conduct a hearing to determine the sum that will be needed by the minor and at least 10 days prior to the date of the hearing, the clerk of the court shall notify the conservator of the minor's estate, the division and the person who filed the petition, if the person is someone other than the guardian or the conservator of the minor's estate, of the date on which the hearing will be held At the hearing any interested person as well as witnesses for the minor and for the division may testify on the question before the court Upon reaching a decision, the court shall issue an order setting forth the decision and the clerk of the court shall enter the order in an appropriate record book The clerk shall also send a copy of the order to the guardian or the conservator of the minor's estate, the person who filed the petition if the person is someone other than the guardian or the conservator of the minor's estate, the division and to each person or public body, agency or commission liable to the minor under the judgment, settlement or compromise. [Formerly 411 568, 1973 c 823 §131]

416.600 Release of portion of lien in certain cases. When the Adult and Family Services Division determines that a recipient will incur additional medical, surgical or hospital expenses or that additional assistance will have to be given to him after the date of satisfaction of judgment or payment under a settlement or compromise, the division may release any portion of its lien to the extent of such anticipated expenses and assistance [Formerly 411 570]

416.610 Action against recipient who fails to notify division of claim. The Adult and Family Services Division shall have a cause of action against any recipient who fails to give the notification required by ORS 416 530 for amounts received by him pursuant to a judgment, settlement or compromise to the extent that the division could have had a lien against such amounts had such notice been given [Formerly 411 572]

MISCELLANEOUS PROVISIONS

416.810 Disposition of reimbursements for public assistance granted. All sums of money recovered by or paid to the division as reimbursement for funds granted for public assistance shall be paid into the State Treasury and credited to the Public Welfare Account and may be expended for public assistance purposes in accordance with ORS 411 060 to 411 111, 411.250 and 411.710 to 411.730, provided, that the United States Government is entitled to a share of any amount so received as its interest may appear, which shall be promptly paid to the United States Government. [Formerly 411 510, 1969 c 45 §4]

416.820 Acceptance and disbursement of gifts for support of certain persons. The Adult and Family Services Division may accept funds, money or other valuable things from relatives, corporations or interested persons or organizations for the care and support of needy persons and may expend the same for the care and support of the individual or individuals for whom the money was paid. Funds accruing thereunder shall be deposited with the State Treasurer in a special account and shall be disbursed in accordance with ORS 411.060 to 411 111, 411 250 and 411.710 to 411 730. [Formerly 411 520, 1971 c 779 §51]

416.830 Acceptance and disbursement of gifts for public assistance. The Adult and Family Services Division may accept from persons, corporations and organizations contributions or gifts in cash or otherwise which shall be disbursed in the same manner as the money appropriated for public assistance purposes, provided, however, that the donor of such gifts

may stipulate the manner in which such gifts shall be expended. [Formerly 411 530, 1971 c 779 §52]

PENALTIES

416.990 Penalties. Any person who makes, renders, signs or verifies any false or fraudulent statement, or supplies any false or fraudulent information with intent to evade any requirement of ORS 416 020, 416.030 and 416.061 or any lawful requirement of the Adult and Family Services Division thereunder is guilty of a misdemeanor. [Formerly part of 411 990]