

## Child - support enforcement may be easier than one thinks

*Perhaps the least-enforced rights in the American legal system are rights to spousal and child support. Fortunately, Oregon law and its judges will enforce the court's order for payment.*

BY BRADLEY J. WOODWORTH, Esq.

*NOTE: No two legal situations are the same. This column discusses only general legal principles. For specific advice, consult a qualified attorney.*

Mary sighed deeply, swallowed hard and dialed the telephone. "Hello, Mom?" It was the third year in a row that she had made this call; it wasn't any easier this time.

"The check's late again, last month's check bounced, and the month before he only sent half of the child support."

The kids were to start school on Monday.

### *Counsel*

They needed clothes, shoes and school supplies. Becky was in the seventh grade; middle-school girls were fashion-particular these days. Bobby was in the ninth grade and needed sports equipment. Mary's mind wandered to last summer's vacation that didn't happen — again.

She had wanted to take the children to the Bay Area to ride the cable cars and visit Golden Gate Park, where she had met her lover some ten years ago. When her car unexpectedly needed a brake job and her ex-husband again sent only part of the child support, the adventure to San Francisco was scrapped. Mary made do with trips to the zoo and some of Portland's many free summertime concerts in the park. The kids seemed to understand. She wondered, though, when they could have a real vacation; when she would show them some of the places that she'd always wanted for them to see.

Reluctantly, Mary asked her mother for the money to do the kids' school shopping. Mom came through — she always did, of course — but when Mary hung up the phone something snapped inside her.

Her next telephone call was to a lawyer. She explained the facts of her marriage and divorce, her custody of the two children, and the child-support order of \$200 per child per month. Mary explained that in the 10 years since the divorce full payments were made rarely and on-time payments never. The lawyer did some quick arithmetic and estimated that the court-ordered child support was more than \$20,000 in arrears. An appointment was made for Mary to come to her office.

"Mary" is a fictional person, but her story is real: perhaps the least-enforced rights in the American legal system are rights to spousal and child support. When a decree of divorce is entered, it may provide that one party (usually the man, who has the higher income) pay a certain

amount per month for support of the spouse or the children of the marriage. Some former spouses observe these court orders, but others fail to make full payment or to make payment on time.

Fortunately, Oregon law and its judges will help the "Marys" of the world by enforcing the court's order for payment of child support. A new statute permits the court to enter an "order of continuous garnishment" against the delinquent party's wages.

This order of garnishment is *continuous* once issued by the court and entitles one to take up to 25 percent of the other's wages directly from his employer. The order can remain in effect as long as there is either an arrearage to be paid or a continuing obligation to pay monthly support. Also, garnishments can be used to take other assets of the debtor such as bank accounts, stock certificates, and so on. Under recent changes in Oregon law, many garnishments can now be issued directly by an attorney without having to involve the court, cutting down on the legal fees necessary to enforce a child-support order.

In some circumstances, the state itself will assist in enforcing the child-support order. Actions by the state may include both civil and criminal prosecutions for recovery of past support, and jail time for willful, criminal non-support.

The duty to provide support for one's minor children, whether or not one has custody, is well established in Oregon law. Any custodial parent who is owed child support arrearages should not hesitate to enforce and collect that obligation. If a trip to court is necessary, the courts are willing to assist.

The circumstances of the parties change dramatically after divorce. For example, if the non-custodial husband is unemployed at the time of the divorce, child support as low as \$50 per month per child might be ordered. If, months or years later, that ex-husband has a good job, wins the lottery, or receives an inheritance, it may be possible to increase the child-support order. If the change in circumstances is dramatic, it probably is in order to do so. The court cannot increase child support retroactively. One should not delay going to court to get the support increased.

In summary, the right to receive child support is a valuable right that Oregon law and courts will help to enforce. If you are or may be entitled to back child support, or if your circumstances warrant an increase or decrease in child support, do not delay to seek qualified legal advice.

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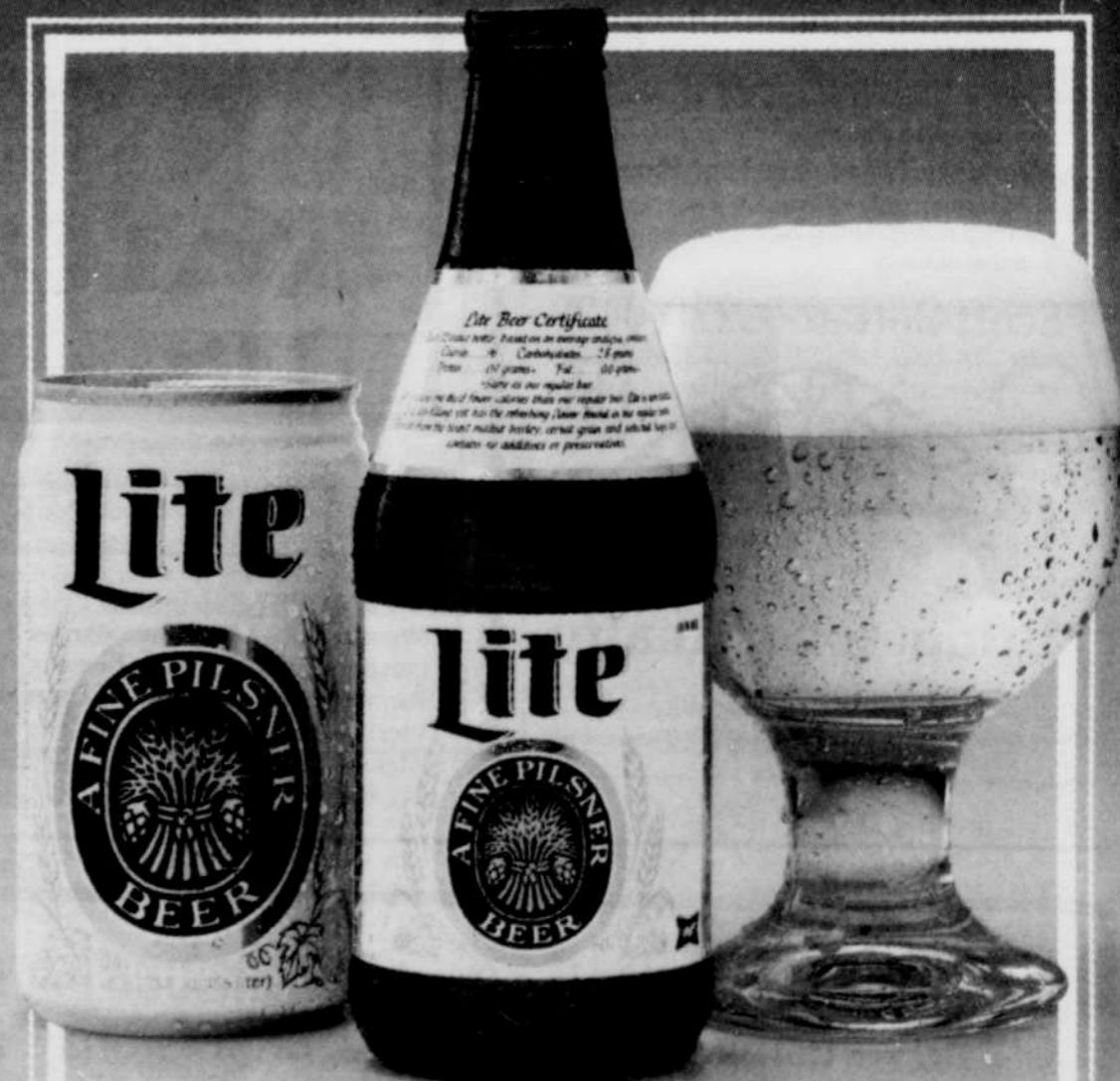
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