

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 1211

STATE OF NEW JERSEY

ADOPTED JANUARY 29, 1996

Sponsored by Assemblyman AUGUSTINE

1 AN ACT concerning the collection of child support payments,
2 amending P.L.1981, c.417 and supplementing chapter 17 of Title
3 2A of the New Jersey Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. Section 2 of P.L.1981, c.417 (C:2A:17-56.8) is amended to
9 read as follows:

10 2. Every complaint, notice or pleading for the entry or
11 modification of an order of a court [entered or modified] which
12 includes child support shall include a written notice to the obligor
13 stating that the child support provision of the order shall, and the
14 medical support provision may, as appropriate, be enforced by an
15 income withholding upon the current or future income due from the
16 obligor's employer or successor employers and upon the
17 unemployment compensation benefits due the obligor and against
18 debts, income, trust funds, profits or income from any other source
19 due the obligor except as provided in section 3 of P.L.1981, c.417
20 (C.2A:17-56.9). The written notice shall also state that the driver's
21 license and professional or occupational licenses held or applied for by
22 the obligor may be denied, suspended or revoked if: the child support
23 arrearage is equal to or exceeds the amount of child support payable
24 for six months; the obligor fails to provide health insurance for the
25 children as ordered by the court for six months; or a warrant for the
26 obligor's arrest has been issued by the court due to failure to pay child
27 support as ordered, failure to appear at a hearing to establish paternity
28 or child support, or failure to appear at a hearing to enforce a child
29 support order and said warrant remains outstanding. The written
30 notice shall also state that the amount of a IV-D child support order
31 and the provisions for medical support coverage shall be reviewed and
32 updated, as necessary, at least every three years.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 The court shall ensure that in the case of each obligor against
2 whom a support order is or has been issued or modified, the obligor's
3 income shall be withheld to comply with the order. An amount shall
4 be withheld to pay the support obligation and it shall include an
5 amount to be applied toward liquidation of arrearages reduced to
6 judgments, payments for paternity testing procedures and provisions
7 for medical support coverage when applicable. [The income
8 withholding] These provisions shall also be applicable to all orders
9 issued on or before the effective date of this act.
10 (cf: P.L.1995, c.58, s.2)

11

12 2. (New section) As used in sections 2 through 13 of this act:

13 "Appropriate enforcement methods" means mechanisms such as
14 income withholding, withholding of civil lawsuits, and execution of the
15 assets of the obligor which can result in immediate payment of the
16 child support arrearage when available. In appropriate cases, the
17 license revocation process may be used as an alternative to Rule 5:7-5
18 of the Rules Governing the Courts of the State of New Jersey.

19 "Child support" means the periodic payment of support for
20 dependents in accordance with a court order or judgment. Child
21 support may include spousal support or alimony if those amounts are
22 unallocated in the order or judgment. Child support also includes the
23 health insurance provisions of a court order or judgment.

24 "Child support- related warrant" means an outstanding warrant for
25 the arrest of a child support obligor or putative father issued by the
26 court for failure to pay child support as ordered, failure to appear at
27 a hearing to establish paternity or child support, or failure to appear
28 at a hearing to enforce a child support order.

29 "Court" means the Family Part of the Superior Court of New
30 Jersey.

31 "License" means any license, registration or certificate issued by
32 the State of New Jersey or its agencies or boards that is directly
33 necessary to provide a product or service for compensation, or to
34 operate a motor vehicle.

35 "Licensing authority" means any department, division, board,
36 agency or other instrumentality of State government that issues a
37 license, registration, certificate or other authorization to provide
38 goods or services for compensation, or to operate a motor vehicle.

39 "Obligee" means any person to whom a child support obligation is
40 payable including, but not limited to, the custodian of the child who is
41 the subject of the order or a county welfare agency that is providing
42 benefits under the program of aid to families with dependent children
43 to the custodian of the child.

44 "Obligor" means any person who owes child support in accordance
45 with an order issued by the Superior Court of New Jersey or a foreign
46 order registered in this State under P.L.1981, c.243 (C:2A:4-30.24 et
47 seq.). Obligor may include a putative father if the basis of a license

1 suspension or revocation action is a warrant for failure to appear at a
2 hearing to establish paternity.

3 "Probation Division" means the Probation Division of the Superior
4 Court which is responsible for enforcing child support orders in New
5 Jersey.

6 "State IV-D agency" means the Division of Family Development
7 in the Department of Human Services.

8

9 3. a. (New section) If the child support arrearage equals or
10 exceeds the amount of child support payable for six months or
11 court-ordered health insurance for the child is not provided for six
12 months or a child support-related warrant exists, and the obligor is
13 found to possess a license in the State and all appropriate enforcement
14 methods to collect the child support arrearage, as defined in section 2
15 of P.L. ,c. (C.)(pending before the Legislature as this bill) have
16 been exhausted, the Probation Division shall send a written notice to
17 the obligor, by certified and regular mail, return receipt requested, at
18 the obligor's last-known address or place of business or employment,
19 advising the obligor that the obligor's license shall be revoked or
20 suspended unless, within 30 days of the postmark date of the notice,
21 the obligor pays the full amount of the child support arrearage, or
22 provides proof that health insurance for the child has been obtained,
23 or makes a written request for a court hearing to the Probation
24 Division. If a child support- related warrant for the obligor exists, the
25 license revocation or suspension process shall be terminated if the
26 obligor pays the full amount of the child support arrearage, provides
27 proof that health insurance for the child has been obtained as required
28 by the court order, or surrenders to the county sheriff or the Probation
29 Division.

30 b. If the obligor fails to take one of the actions in subsection a. of
31 this section within 30 days of the postmark date of the notice and there
32 is proof that service on the obligor was effective, the Probation
33 Division shall file a certification with the court setting forth the
34 obligor's non-compliance with the support order and the obligor's
35 failure to respond to the written notice of the potential license
36 suspension or revocation. If, based on the papers filed by the
37 Probation Division, the court is satisfied that service on the obligor
38 was effective as set forth in this section, it shall without need for
39 further due process or hearing, enter a court order suspending or
40 revoking all licenses held by the obligor. Upon the entry of the order,
41 the Probation Division shall forward a copy to the obligor and all
42 appropriate licensing authorities.

43 Simultaneous certified and regular mailing of the written notice
44 shall constitute effective service unless the United States Postal
45 Service returns the mail to the Probation Division within the 30-day
46 response period marked "moved, unable to forward," "addressee not
47 known," "no such number/street," "insufficient address," or

1 “forwarding order expired.” If the certified mail is returned for any
2 other reason without the return of the regular mail, the regular mail
3 service shall constitute effective service. If the mail is addressed to the
4 obligor at the obligor’s place of business or employment, with postal
5 instructions to deliver to addressee only, service will be deemed
6 effective only if the signature on the return receipt appears to be that
7 of the obligor. Acceptance of the certified mail notice signed by the
8 obligor, the obligor’s attorney, or a competent member of the
9 obligor’s household above the age of 14 shall be deemed effective
10 service.

11 c. If the obligor requests a hearing, the Probation Division shall
12 file a petition for a judicial hearing in accordance with section 5 of
13 P.L. , c. (C.)(pending before the Legislature as this bill). The
14 hearing shall occur within 45 days of the obligor's request. If, prior to
15 the hearing, the obligor pays the full amount of the child support
16 arrearage or provides health insurance as ordered, the license
17 revocation process shall be terminated. No license revocation action
18 shall be initiated if the Probation Division has received notice that the
19 obligor has pending a motion to modify the child support order if that
20 motion was filed prior to the date that the notice of the license
21 suspension or revocation was sent by the Probation Division. The
22 court shall consider the Probation Division’s petition to revoke or
23 suspend a license in accordance with section 5 of P.L. , c. (C.)
24 (pending before the Legislature as this bill).

25

26 4. (New section) Child support payments not presently made
27 through the Probation Division shall be so made, upon the application
28 of the obligee to the Probation Division and prior to the application of
29 the provisions of this act.

30

31 5. (New section) The court shall suspend or revoke a license if it
32 finds that: a. all appropriate enforcement methods as defined in section
33 2 of P.L. , c. (C.)(pending before the Legislature as this bill)
34 have been exhausted, b. the obligor is the holder of a license, c. the
35 requisite child support arrearage amount exists or health insurance for
36 the child has not been provided as ordered pursuant to section 3 of
37 P.L. , c. (C.)(pending before the Legislature as this bill), d. no
38 motion to modify the child support order, filed prior to the date that
39 the notice of the license suspension or revocation was sent by the
40 Probation Division, is pending before the court, and e. there is no
41 equitable reason, such as involuntary unemployment, disability, or
42 compliance with a court-ordered plan for the periodic payment of the
43 child support arrearage amount, for the obligor's non-compliance with
44 the child support order.

45 If the court is satisfied that these conditions exist, it shall first
46 consider suspending or revoking a driver's license prior to a
47 professional license. If the obligor fails to appear at the hearing after

1 being properly served with notice, the court shall order the suspension
2 or revocation of all licenses held by the obligor. In the case of a
3 driver's license, if the court finds that the license revocation or
4 suspension will result in a significant hardship to the obligor, to the
5 obligor's legal dependents under 18 years of age living in the obligor's
6 household, to the obligor's employees, or to persons, businesses or
7 entities to whom the obligor provides goods or services, the court may
8 allow the obligor to pay 25% of the past-due child support amount
9 within three working days of the hearing, establish a payment schedule
10 to satisfy the remainder of the arrearages within one year, and require
11 that the obligor comply with any current child support obligation. If
12 the obligor agrees to this arrangement, no suspension or revocation of
13 any licenses shall be ordered. Compliance with the payment agreement
14 shall be monitored by the Probation Division. If the obligor has good
15 cause for not complying with the payment agreement within the time
16 permitted, the obligor shall immediately file a motion with the court
17 and the Probation Division requesting an extension of the payment
18 plan. The court may extend the payment plan if it is satisfied that the
19 obligor has made a good faith effort to comply with the plan and is
20 unable to satisfy the full amount of past-due support within the time
21 permitted due to circumstances beyond the obligor's control. In no
22 case shall a payment plan extend beyond the date the dependent child
23 reaches the age of 18. If the obligor fails to comply with the
24 court-ordered payment schedule, the court shall, upon receipt of a
25 certification of non-compliance from the obligee or Probation
26 Division, and without further hearing, order the immediate revocation
27 or suspension of all licenses held by the obligor. If required by
28 existing law or regulation, the court shall order that the obligor
29 surrender the license to the issuing authority within 30 days of the date
30 of the order.

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32 6. (New section) a. The Probation Division shall provide the
33 licensing authority with a copy of the order requiring the suspension
34 or revocation of a license. Upon receipt of an order requiring the
35 suspension or revocation of a license for non-payment of child
36 support, the licensing authority shall immediately notify the licensee of
37 the effective date of the suspension or revocation, which shall be 20
38 days after the postmark of the notice, direct the licensee to refrain
39 from engaging in the activity associated with the license, surrender any
40 license as required by law, and inform the licensee that the license shall
41 not be reinstated until the court or Probation Division certifies that all
42 child support arrearage is satisfied. The Probation Division and the
43 State IV-D agency in association with the affected licensing authorities
44 may develop electronic or magnetic tape data transfers to notify
45 licensing authorities of restrictions, suspensions, revocations and
46 reinstatements. No liability shall be imposed on a licensing authority
47 for suspending or revoking a license if the action is in response to a

1 court order issued in accordance with P.L. ,c. (C.)(pending before
2 the Legislature as this bill). Licensing authorities shall not have
3 jurisdiction to modify, remand, reverse, vacate or stay a court order to
4 restrict, suspend or revoke a license for non-payment of child support.

5 b. If a licensee, upon receipt of the notice of suspension or
6 revocation from the licensing authority, disputes that he is an obligor,
7 the licensee shall notify the licensing authority and the Probation
8 Division by registered mail within 20 days of the postmark of the
9 notice and request a hearing. Upon receipt of the licensee's request for
10 a hearing, the Probation Division shall determine if the licensee is an
11 obligor. If the Probation Division determines that the licensee is an
12 obligor, the Probation Division shall file a petition for a judicial
13 hearing on the issue of whether the licensee is an obligor. The hearing
14 shall occur within 30 days. If the Probation Division determines that
15 the licensee is not an obligor, the Probation Division shall so notify the
16 licensee and the licensing authority. The licensing authority shall not
17 suspend or revoke a person's license, if the licensing authority
18 received proper notice of the licensee's request for a hearing pursuant
19 to this subsection, until the court finds that the licensee is an obligor.
20 The Probation Division shall notify the licensing authority of the
21 court's finding. Upon receipt of the court's finding that the licensee is
22 an obligor, the licensing authority shall immediately suspend or revoke
23 the obligor's license without additional review or hearing.

24 c. The revocation or suspension of a license ordered by the court
25 in accordance with P.L. , c. (C.)(pending before the Legislature
26 as this bill) shall continue until the obligor files with the licensing
27 authority either a court order restoring the license or a Probation
28 Division certification attesting to the full satisfaction of the child
29 support arrearage.

30 d. Each licensing authority shall require license applicants to
31 certify on the license application form, under penalty of perjury, that
32 the applicant does not have a child support obligation, the applicant
33 does have such an obligation but the arrearage amount does not equal
34 or exceed the amount of child support payable for six months, or the
35 applicant is not the subject of a child-support related warrant. A
36 license shall not be granted to an obligor who applies for a license if
37 there is an arrearage equal to or exceeding the amount of child support
38 payable for six months or who is the subject of a child support-related
39 warrant. The application form shall state that making a false statement
40 may subject the applicant to contempt of court. It shall also state that
41 if the applicant's certification is found to be false, the licensing
42 authority shall take disciplinary action including, but not limited to,
43 immediate revocation or suspension of the license.

44 e. For all licenses issued or renewed in the State after the effective
45 date of P.L. , c. (C.)(pending before the Legislature as this bill),
46 the licensing authority shall record the full name, mailing address,
47 Social Security number and date of birth of the applicant or licensee.

1 All affected licensing authorities shall cooperate and enter into
2 agreements with the Probation Division and the State IV-D agency to
3 exchange information to effectuate the purposes of P.L. , c. (C.)
4 (pending before the Legislature as this bill). The Division of Motor
5 Vehicles in the Department of Law and Public Safety and other
6 appropriate licensing agencies shall amend their regulations and public
7 notices to permit Social Security numbers collected by those agencies
8 to be used for child support enforcement purposes. License
9 information obtained through data matches with licensing authorities
10 shall be maintained on the Automated Child Support Enforcement
11 System in the Department of Human Services for future use.

12

13 7. (New section) The obligor shall pay all fees associated with the
14 revocation, suspension or reinstatement of a license. Any fees paid by
15 the obligor to the licensing authority to issue, renew or maintain a
16 license shall not be refunded if the license is suspended or revoked in
17 accordance with P.L. , c. (C.)(pending before the Legislature as this
18 bill).

19

20 8. (New section) Information regarding driver's licenses suspended
21 or revoked in accordance with P.L. , c. (C.)(pending before the
22 Legislature as this bill) shall be made available by the Division of
23 Motor Vehicles to insurance companies that issue motor vehicle
24 policies. Insurance companies are prohibited from increasing a
25 policyholder's rates solely because a license was suspended or revoked
26 in accordance with P.L. , c. (C.)(pending before the Legislature
27 as this bill).

28

29 9. (New section) All actions taken to suspend or revoke a license
30 in accordance with P.L. , c. (C.)(pending before the Legislature
31 as this bill) shall be carried out in full compliance with due process
32 laws and the Rules Governing the Courts of the State of New Jersey.
33 Service of process shall be made in accordance with applicable New
34 Jersey court rules and statutes. For the purposes of P.L. , c. (C.)
35 (pending before the Legislature as this bill), service of process may be
36 effected by an employee of the Probation Division.

37

38 10. (New section) The State IV-D agency shall enter into
39 cooperative agreements for federal IV-D funding with the Department
40 of Law and Public Safety and any other appropriate licensing authority
41 that is responsible for administering license suspensions and
42 revocations in accordance with P.L. , c. (C.)(pending before the
43 Legislature as this bill) to the extent that the costs are eligible for
44 federal financial participation under section 451 of Title IV, Part D of
45 the federal Social Security Act (42 U.S.C. §651 et seq.).

1 11. (New section) The license revocation provisions of P.L. ,
2 c. (C.)(pending before the Legislature as this bill) apply to all
3 orders issued before or after the effective date of P.L. , c. (C.)
4 (pending before the Legislature as this bill). All child support
5 arrearage and health insurance provisions in existence on or before the
6 effective date of P.L. , c. (C.)(pending before the Legislature as
7 this bill) shall be included in determining whether a case is eligible for
8 enforcement in accordance with P.L. , c. (C.)(pending before
9 the Legislature as this bill). This act applies to all child support
10 obligations ordered by any state, territory or district of the United
11 States that are being enforced by the Probation Division, that are
12 payable directly to the obligee, or have been registered in this State in
13 accordance with P.L.1981, c.243 (C.2A:4-30.24 et seq.).
14

15 12. (New section) The Administrative Office of the Courts shall
16 submit an annual report to the Governor and the Legislature regarding
17 the number and type of licenses suspended or revoked in accordance
18 with P.L. , c. (C.)(pending before the Legislature as this bill)
19 and the total amount of child support collected due to P.L. , c. (C.)
20 (pending before the Legislature as this bill).
21

22 13. (New section) The Supreme Court may adopt rules and
23 procedures for the implementation and administration of P.L. , c. (C.)
24 (pending before the Legislature as this bill). The State IV-D agency
25 and licensing authorities may adopt regulations to implement P.L. ,
26 c. (C.)(pending before the Legislature as this bill) pursuant to the
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
28 seq.).
29

30 14. This act shall take effect immediately.
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35 Allows for suspension or revocation of certain licenses, registrations
36 or certificates for nonpayment of child support orders.