

CHAPTER 7

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

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

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

C.2A:17-56.8 Enforcement of child support orders.

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

The court shall ensure that in the case of each obligor against whom a support order is or has been issued or modified, the obligor's income shall be withheld to comply with the order. An amount shall be withheld to pay the support obligation and it shall include an amount to be applied toward liquidation of arrearages reduced to judgments, payments for paternity testing procedures and provisions for medical support coverage when applicable. These provisions shall also be applicable to all orders issued on or before the effective date of this act.

C.2A:17-56.40 Definitions relative to child support.

2. As used in sections 2 through 13 of this act:

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

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

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

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

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

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

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

"Obligor" means any person who owes child support in accordance with an order issued by

the Superior Court of New Jersey or a foreign order registered in this State under P.L.1981, c.243 (C.2A:4-30.24 et seq.). "Obligor" may include a putative father if the basis of a license suspension or revocation action is a warrant for failure to appear at a hearing to establish paternity.

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

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

C.2A:17-56.41 Consequences of obligor's noncompliance, license suspension, revocation; hearing.

3. a. If the child support arrearage equals or exceeds the amount of child support payable for six months or court-ordered health insurance for the child is not provided for six months or a child support-related warrant exists, and the obligor is found to possess a license in the State and all appropriate enforcement methods to collect the child support arrearage, as defined in section 2 of P.L.1996, c.7 (C.2A:17-56.40) have been exhausted, the Probation Division shall send a written notice to the obligor, by certified and regular mail, return receipt requested, at the obligor's last-known address or place of business or employment, advising the obligor that the obligor's license shall be revoked or suspended unless, within 30 days of the postmark date of the notice, the obligor pays the full amount of the child support arrearage, or provides proof that health insurance for the child has been obtained, or makes a written request for a court hearing to the Probation Division. If a child support-related warrant for the obligor exists, the license revocation or suspension process shall be terminated if the obligor pays the full amount of the child support arrearage, provides proof that health insurance for the child has been obtained as required by the court order, or surrenders to the county sheriff or the Probation Division.

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

Simultaneous certified and regular mailing of the written notice shall constitute effective service unless the United States Postal Service returns the mail to the Probation Division within the 30-day response period marked "moved, unable to forward," "addressee not known," "no such number/street," "insufficient address," or "forwarding order expired." If the certified mail is returned for any other reason without the return of the regular mail, the regular mail service shall constitute effective service. If the mail is addressed to the obligor at the obligor's place of business or employment, with postal instructions to deliver to addressee only, service will be deemed effective only if the signature on the return receipt appears to be that of the obligor. Acceptance of the certified mail notice signed by the obligor, the obligor's attorney, or a competent member of the obligor's household above the age of 14 shall be deemed effective service.

c. If the obligor requests a hearing, the Probation Division shall file a petition for a judicial hearing in accordance with section 5 of P.L.1996, c.7 (C.2A:17-56.43). The hearing shall occur within 45 days of the obligor's request. If, prior to the hearing, the obligor pays the full amount of the child support arrearage or provides health insurance as ordered, the license revocation process shall be terminated. No license revocation action shall be initiated if the Probation Division has received notice that the obligor has pending a motion to modify the child support order if that motion was filed prior to the date that the notice of the license suspension or revocation was sent by the Probation Division. The court shall consider the Probation Division's petition to revoke or suspend a license in accordance with section 5 of P.L.1996, c.7 (C.2A:17-56.43).

C.2A:17-56.42 Payments made through Probation Division.

4. Child support payments not presently made through the Probation Division shall be so made, upon the application of the obligee to the Probation Division and prior to the application of the provisions of this act.

C.2A:17-56.43 Suspension, revocation of license.

5. The court shall suspend or revoke a license if it finds that: a. all appropriate enforcement methods as defined in section 2 of P.L.1996, c.7 (C. 2A:17-56.40) have been exhausted, b. the obligor is the holder of a license, c. the requisite child support arrearage amount exists or health insurance for the child has not been provided as ordered pursuant to section 3 of P.L.1996, c.7 (C.2A:17-56.41), d. no motion to modify the child support order, filed prior to the date that the notice of the license suspension or revocation was sent by the Probation Division, is pending before the court, and e. there is no equitable reason, such as involuntary unemployment, disability, or compliance with a court-ordered plan for the periodic payment of the child support arrearage amount, for the obligor's non-compliance with the child support order.

If the court is satisfied that these conditions exist, it shall first consider suspending or revoking a driver's license prior to a professional license. If the obligor fails to appear at the hearing after being properly served with notice, the court shall order the suspension or revocation of all licenses held by the obligor. In the case of a driver's license, if the court finds that the license revocation or suspension will result in a significant hardship to the obligor, to the obligor's legal dependents under 18 years of age living in the obligor's household, to the obligor's employees, or to persons, businesses or entities to whom the obligor provides goods or services, the court may allow the obligor to pay 25% of the past-due child support amount within three working days of the hearing, establish a payment schedule to satisfy the remainder of the arrearages within one year, and require that the obligor comply with any current child support obligation. If the obligor agrees to this arrangement, no suspension or revocation of any licenses shall be ordered. Compliance with the payment agreement shall be monitored by the Probation Division. If the obligor has good cause for not complying with the payment agreement within the time permitted, the obligor shall immediately file a motion with the court and the Probation Division requesting an extension of the payment plan. The court may extend the payment plan if it is satisfied that the obligor has made a good faith effort to comply with the plan and is unable to satisfy the full amount of past-due support within the time permitted due to circumstances beyond the obligor's control. In no case shall a payment plan extend beyond the date the dependent child reaches the age of 18. If the obligor fails to comply with the court-ordered payment schedule, the court shall, upon receipt of a certification of non-compliance from the obligee or Probation Division, and without further hearing, order the immediate revocation or suspension of all licenses held by the obligor. If required by existing law or regulation, the court shall order that the obligor surrender the license to the issuing authority within 30 days of the date of the order.

C.2A:17-56.44 Suspension, revocation procedures.

6. a. The Probation Division shall provide the licensing authority with a copy of the order requiring the suspension or revocation of a license. Upon receipt of an order requiring the suspension or revocation of a license for non-payment of child support, the licensing authority shall immediately notify the licensee of the effective date of the suspension or revocation, which shall be 20 days after the postmark of the notice, direct the licensee to refrain from engaging in the activity associated with the license, surrender any license as required by law, and inform the licensee that the license shall not be reinstated until the court or Probation Division certifies that all child support arrearage is satisfied. The Probation Division and the State IV-D agency in association with the affected licensing authorities may develop electronic or magnetic tape data transfers to notify licensing authorities of restrictions, suspensions, revocations and reinstatements. No liability shall be imposed on a licensing authority for suspending or revoking a license if the action is in response to a court order issued in accordance with P.L.1996, c.7 (C.2A:17-56.40 et al.). Licensing authorities shall not have jurisdiction to modify, remand, reverse, vacate or stay a court order to restrict, suspend or revoke a license for non-payment of child support.

b. If a licensee, upon receipt of the notice of suspension or revocation from the licensing authority, disputes that he is an obligor, the licensee shall notify the licensing authority and the

Probation Division by registered mail within 20 days of the postmark of the notice and request a hearing. Upon receipt of the licensee's request for a hearing, the Probation Division shall determine if the licensee is an obligor. If the Probation Division determines that the licensee is an obligor, the Probation Division shall file a petition for a judicial hearing on the issue of whether the licensee is an obligor. The hearing shall occur within 30 days. If the Probation Division determines that the licensee is not an obligor, the Probation Division shall so notify the licensee and the licensing authority. The licensing authority shall not suspend or revoke a person's license, if the licensing authority received proper notice of the licensee's request for a hearing pursuant to this subsection, until the court finds that the licensee is an obligor. The Probation Division shall notify the licensing authority of the court's finding. Upon receipt of the court's finding that the licensee is an obligor, the licensing authority shall immediately suspend or revoke the obligor's license without additional review or hearing.

c. The revocation or suspension of a license ordered by the court in accordance with P.L.1996, c.7 (C.2A:17-56.40 et al.) shall continue until the obligor files with the licensing authority either a court order restoring the license or a Probation Division certification attesting to the full satisfaction of the child support arrearage.

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

e. For all licenses issued or renewed in the State after the effective date of P.L.1996, c.7 (C.2A:17-56.40 et al.), the licensing authority shall record the full name, mailing address, Social Security number and date of birth of the applicant or licensee. All affected licensing authorities shall cooperate and enter into agreements with the Probation Division and the State IV-D agency to exchange information to effectuate the purposes of P.L.1996, c.7 (C.2A:17-56.40 et al.). The Division of Motor Vehicles in the Department of Transportation and other appropriate licensing agencies shall amend their regulations and public notices to permit Social Security numbers collected by those agencies to be used for child support enforcement purposes. License information obtained through data matches with licensing authorities shall be maintained on the Automated Child Support Enforcement System in the Department of Human Services for future use.

C.2A:17-56.45 Payment of fees.

7. The obligor shall pay all fees associated with the revocation, suspension or reinstatement of a license. Any fees paid by the obligor to the licensing authority to issue, renew or maintain a license shall not be refunded if the license is suspended or revoked in accordance with P.L.1996, c.7 (C.2A:17-56.40 et al.).

C.2A:17-56.46 Information on driver's license suspension to insurers.

8. Information regarding driver's licenses suspended or revoked in accordance with P.L.1996, c.7 (C.2A:17-56.40 et al.) shall be made available by the Division of Motor Vehicles to insurance companies that issue motor vehicle policies. Insurance companies are prohibited from increasing a policyholder's rates solely because a license was suspended or revoked in accordance with P.L.1996, c.7 (C.2A:17-56.40 et al.).

C.2A:17-56.47 Due process, service.

9. All actions taken to suspend or revoke a license in accordance with P.L.1996, c.7 (C.2A:17-56.40) shall be carried out in full compliance with due process laws and the Rules Governing the Courts of the State of New Jersey. Service of process shall be made in accordance with applicable New Jersey court rules and statutes. For the purposes of P.L.1996,

c.7 (C.2A:17-56.40 et al.), service of process may be effected by an employee of the Probation Division.

C.2A:17-56.48 Cooperative agreements.

10. The State IV-D agency shall enter into cooperative agreements for federal IV-D funding with the Department of Law and Public Safety and any other appropriate licensing authority that is responsible for administering license suspensions and revocations in accordance with P.L.1996, c.7 (C.2A:17-56.40 et al.) to the extent that the costs are eligible for federal financial participation under section 451 of Title IV, Part D of the federal Social Security Act (42 U.S.C. §651 et seq.).

C.2A:17-56.49 Applicability of act.

11. The license revocation provisions of P.L.1996, c.7 (C.2A:17-56.40 et al.) apply to all orders issued before or after the effective date of P.L.1996, c.7 (C.2A:17-56.40 et al.). All child support arrearage and health insurance provisions in existence on or before the effective date of P.L.1996, c.7 (C.2A:17-56.40 et al.) shall be included in determining whether a case is eligible for enforcement in accordance with P.L.1996, c.7 (C.2A:17-56.40 et al.). This act applies to all child support obligations ordered by any state, territory or district of the United States that are being enforced by the Probation Division, that are payable directly to the obligee, or have been registered in this State in accordance with P.L.1981, c.243 (C.2A:4-30.24 et seq.).

C.2A:17-56.50 Annual report.

12. The Administrative Office of the Courts shall submit an annual report to the Governor and the Legislature regarding the number and type of licenses suspended or revoked in accordance with P.L.1996, c.7 (C.2A:17-56.40 et al.) and the total amount of child support collected due to P.L.1996, c.7 (C.2A:17-56.40 et al.).

C.2A:17-56.51 Rules, procedures, regulations.

13. The Supreme Court may adopt rules and procedures for the implementation and administration of P.L.1996, c.7 (C.2A:17-56.40 et al.). The State IV-D agency and licensing authorities may adopt regulations to implement P.L.1996, c.7 (C.2A:17-56.40 et al.) pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

14. This act shall take effect immediately.

Approved March 15, 1996.