

SENATE, No. 355

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senators CODEY and BRYANT

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

33 The court shall ensure that in the case of each obligor against whom  
34 a support order is or has been issued or modified, the obligor's income

**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 shall be withheld to comply with the order. An amount shall be  
2 withheld to pay the support obligation and it shall include an amount  
3 to be applied toward liquidation of arrearages reduced to judgments,  
4 payments for paternity testing procedures and provisions for medical  
5 support coverage when applicable. [The income withholding] These  
6 provisions shall also be applicable to all orders issued on or before the  
7 effective date of this act.

8 (cf: P.L.1995, c.58, s.2)

9

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

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

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

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

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

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

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

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

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

1 hearing to establish paternity.

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

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

7

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

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

42 Simultaneous certified and regular mailing of the written notice  
43 shall constitute effective service unless the United States Postal  
44 Service returns the mail to the Probation Division within the 30-day  
45 response period marked "moved, unable to forward," "addressee not  
46 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).

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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.

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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

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

32  
33 6. (New section) a. The Probation Division shall provide the  
34 licensing authority with a copy of the order requiring the suspension  
35 or revocation of a license. Upon receipt of an order requiring the  
36 suspension or revocation of a license for non-payment of child  
37 support, the licensing authority shall immediately notify the licensee of  
38 the effective date of the suspension or revocation, which shall be 20  
39 days after the postmark of the notice, direct the licensee to refrain  
40 from engaging in the activity associated with the license, surrender any  
41 license as required by law, and inform the licensee that the license shall  
42 not be reinstated until the court or Probation Division certifies that all  
43 child support arrearage is satisfied. The Probation Division and the  
44 State IV-D agency in association with the affected licensing authorities  
45 may develop electronic or magnetic tape data transfers to notify  
46 licensing authorities of restrictions, suspensions, revocations and

1 reinstatements. No liability shall be imposed on a licensing authority  
2 for suspending or revoking a license if the action is in response to a  
3 court order issued in accordance with P.L. ,c. (C. )(pending before  
4 the Legislature as this bill). Licensing authorities shall not have  
5 jurisdiction to modify, remand, reverse, vacate or stay a court order to  
6 restrict, suspend or revoke a license for non-payment of child support.

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

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

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

46 e. For all licenses issued or renewed in the State after the effective

1 date of P.L. , c. (C. )(pending before the Legislature as this bill),  
2 the licensing authority shall record the full name, mailing address,  
3 Social Security number and date of birth of the applicant or licensee.  
4 All affected licensing authorities shall cooperate and enter into  
5 agreements with the Probation Division and the State IV-D agency to  
6 exchange information to effectuate the purposes of P.L. , c. (C. )  
7 (pending before the Legislature as this bill). The Division of Motor  
8 Vehicles in the Department of Law and Public Safety and other  
9 appropriate licensing agencies shall amend their regulations and public  
10 notices to permit Social Security numbers collected by those agencies  
11 to be used for child support enforcement purposes. License  
12 information obtained through data matches with licensing authorities  
13 shall be maintained on the Automated Child Support Enforcement  
14 System in the Department of Human Services for future use.  
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16 7. (New section) The obligor shall pay all fees associated with the  
17 revocation, suspension or reinstatement of a license. Any fees paid by  
18 the obligor to the licensing authority to issue, renew or maintain a  
19 license shall not be refunded if the license is suspended or revoked in  
20 accordance with P.L. , c. (C. )(pending before the Legislature as this  
21 bill).  
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23 8. (New section) Information regarding driver's licenses suspended  
24 or revoked in accordance with P.L. , c. (C. )(pending before the  
25 Legislature as this bill) shall be made available by the Division of  
26 Motor Vehicles to insurance companies that issue motor vehicle  
27 policies. Insurance companies are prohibited from increasing a  
28 policyholder's rates solely because a license was suspended or revoked  
29 in accordance with P.L. , c. (C. )(pending before the Legislature  
30 as this bill).  
31

32 9. (New section) All actions taken to suspend or revoke a license  
33 in accordance with P.L. , c. (C. )(pending before the Legislature  
34 as this bill) shall be carried out in full compliance with due process  
35 laws and the Rules Governing the Courts of the State of New Jersey.  
36 Service of process shall be made in accordance with applicable New  
37 Jersey court rules and statutes. For the purposes of P.L. , c. (C. )  
38 (pending before the Legislature as this bill), service of process may be  
39 effected by an employee of the Probation Division.  
40

41 10. (New section) The State IV-D agency shall enter into  
42 cooperative agreements for federal IV-D funding with the Department  
43 of Law and Public Safety and any other appropriate licensing authority  
44 that is responsible for administering license suspensions and  
45 revocations in accordance with P.L. , c. (C. )(pending before the  
46 Legislature as this bill) to the extent that the costs are eligible for

1 federal financial participation under section 451 of Title IV, Part D of  
2 the federal Social Security Act (42 U.S.C. §651 et seq.).

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

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

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

32  
33 14. This act shall take effect immediately.

#### 34 35 36 STATEMENT

37  
38 This bill would expand the enforcement powers of the Probation  
39 Division of the Superior Court which is responsible for enforcing child  
40 support orders in the State.

41 The bill allows for the suspension or revocation of any license,  
42 registration or certificate issued by the State that is directly necessary  
43 to provide a product or service for compensation, or to operate a  
44 motor vehicle for nonpayment of child support. The licenses would be  
45 restored once an individual becomes current on child support payments  
46 and a regular schedule has been established. If an obligor defaults on

1 the payment schedule, the obligor's licenses, registrations or  
2 certificates, as the case may be, would be automatically denied,  
3 suspended or revoked.

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8 Allows for suspension or revocation of certain licenses, registrations  
9 or certificates for nonpayment of child support orders.