

SENATE, No. 3555

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED MARCH 15, 2021

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Hunterdon and Mercer)

SYNOPSIS

Establishes greater discretion in court concerning child support related license suspension and credit reporting.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning child support enforcement and amending
2 various parts of statutory law.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 3 of P.L.1996, c.7 (C.2A:17-56.41) is amended to
8 read as follows:

9 3. a. If all appropriate enforcement methods to collect child
10 support arrearage have been exhausted and the child support
11 arrearage equals or exceeds the amount of child support payable for
12 six months or court-ordered health care coverage for the child is not
13 provided for six months, or the obligor fails to respond to a
14 subpoena relating to a paternity or child support action**],** or a child
15 support-related warrant exists,**]** and the obligor is found to possess
16 a license in the State **[**and all appropriate enforcement methods to
17 collect the child support arrearage have been exhausted**],** the
18 Probation Division shall send a written notice to the obligor, **[**by
19 certified and regular mail, return receipt requested**]** in accordance
20 with the Rules of Court, at the obligor's last-known address or place
21 of business or employment, advising the obligor that the obligor's
22 license may be revoked or suspended unless, within 30 days of the
23 postmark date of the notice, the obligor pays the full amount of the
24 child support arrearage, or provides proof that health care coverage
25 for the child has been obtained, or responds to a subpoena, or makes
26 a written request for a court hearing to the Probation Division, or
27 reaches an agreement with the Probation Division on a payment
28 amount that is approved the Court including the resumption of
29 timely ongoing support payments. **[**If a child support- related
30 warrant for the obligor exists, the professional, occupational,
31 recreational or sporting license revocation or suspension shall be
32 terminated if the obligor pays the full amount of the child support
33 arrearage, provides proof that health care coverage for the child has
34 been obtained as required by the court order, or surrenders to the
35 county sheriff or the Probation Division.**]**

36 b. If the obligor fails to take one of the actions in subsection a.
37 of this section within 30 days of the postmark date of the notice and
38 there is proof that service on the obligor was effective, the
39 Probation Division **[shall]** may file a certification with the court
40 setting forth the obligor's non-compliance with the support order
41 and the obligor's failure to respond to the written notice of the
42 potential license suspension or revocation. If, based on the papers
43 filed by the Probation Division, the court is satisfied that service on
44 the obligor was effective as set forth in this section, it shall without
45 need for further due process or hearing, enter a court order

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 suspending or revoking all licenses held by the obligor for which
2 they have been previously noticed. Upon the entry of the order, the
3 Probation Division shall forward a copy to the obligor and all
4 appropriate licensing authorities.

5 For the purposes of this section, the court may deem procedural
6 due process requirements for notice and service of process to be met
7 with respect to a party thereto upon delivery of written notice to the
8 most recent residential or employer address filed with the Probation
9 Division for that party. If a party fails to respond to a notice and no
10 proof is available that the party received the notice, the Probation
11 Division shall document to the court that it has made a diligent
12 effort to locate the party by making inquiries that may include, but
13 are not limited to: the United States Postal Service, the **【Division**
14 **of】** New Jersey Motor Vehicles **【in the Department of**
15 **Transportation】** Commission, the Division of Taxation in the
16 Department of the Treasury and the Departments of Labor and
17 Corrections. The Probation Division shall provide **【an affidavit】** a
18 certification to the court presenting such documentation of its
19 diligent effort, which certifies its inability to locate the party, before
20 any adverse action is taken based upon the party's failure to respond
21 to the notice.

22 c. If the obligor requests a hearing, the Probation Division shall
23 file a petition for a judicial hearing in accordance with section 5 of
24 P.L.1996, c.7 (C.2A:17-56.43). The hearing shall occur within 45
25 days of the obligor's request. If, at or prior to the hearing, the
26 obligor pays the full amount of the child support arrearage or
27 provides health care coverage as ordered, or responds to the
28 subpoena **【or surrenders to the county sheriff or the Probation**
29 **Division】** or reaches an agreement with the Probation Division on a
30 payment amount that is approved the Court including the
31 resumption of timely ongoing support payments, the license
32 revocation process shall be terminated. No license revocation
33 action shall be initiated if the Probation Division has received
34 notice that the obligor has pending a motion to modify the child
35 support order if that motion was filed prior to the date that the
36 notice of the license suspension or revocation was sent by the
37 Probation Division. The court shall consider the Probation
38 Division's petition to revoke or suspend a license in accordance
39 with section 5 of P.L.1996, c.7 (C.2A:17-56.43).
40 (cf: P.L.2019, c.276, s.2).

41
42 2. Section 5 of P.L.1996, c.7 (C.2A:17-56.43) is amended to
43 read as follows:

44 5. The court **【shall】** may suspend or revoke a license if it finds
45 that: a. all appropriate enforcement methods have been exhausted,
46 b. the obligor is the holder of a license, c. the requisite child support
47 arrearage amount exists, health care coverage has not been provided

1 as ordered pursuant to section 3 of P.L.1996, c.7 (C.2A:17-56.41),
2 or there has been no response to a subpoena, d. no motion to modify
3 the child support order, filed prior to the date that the notice of the
4 license suspension or revocation was sent by the Probation
5 Division, is pending before the court, and e. there is no equitable
6 reason, such as involuntary unemployment, disability, or
7 compliance with a court-ordered plan for the periodic payment of
8 the child support arrearage amount, for the obligor's non-
9 compliance with the child support order.

10 If the court is satisfied that these conditions exist, it **【shall】** may
11 first consider suspending or revoking a driver's license prior to a
12 professional or recreational license. If the obligor fails to appear at
13 the hearing after being properly served with notice, the court
14 **【shall】** may order the suspension or revocation of all licenses held
15 by the obligor. In the case of a driver's license, if the court finds
16 that the license revocation or suspension will result in a significant
17 hardship to the obligor, to the obligor's legal dependents **【under 18**
18 **years of age】** living in the obligor's household, to the obligor's
19 employees, or to persons, businesses or entities to whom the obligor
20 provides goods or services, the court may allow the obligor to pay
21 **【25%】** a lump sum as determined by the court of the past-due child
22 support amount within a time frame determined by the court, but
23 not to exceed **【three】** ten working days of the hearing, establish a
24 payment schedule to satisfy the remainder of the arrearages within
25 **【one year】** a time period as determined by the court, but not to
26 exceed five years, and require that the obligor comply with any
27 current child support obligation. If the obligor agrees to this
28 arrangement, no suspension or revocation of any licenses shall be
29 ordered. Compliance with the payment agreement shall be
30 monitored by the Probation Division. If the obligor has good cause
31 for not complying with the payment agreement within the time
32 permitted by the court, the obligor shall immediately file a motion
33 or application with the court and with notice to the Probation
34 Division requesting an extension, modification, or both an
35 extension and modification of the payment plan. The court may
36 extend the payment plan if it is satisfied that the obligor has made a
37 good faith effort to comply with the plan and is unable to satisfy the
38 full amount of past-due support within the time permitted due to
39 circumstances beyond the obligor's control. **【In no case shall a**
40 **payment plan extend beyond the date the dependent child reaches**
41 **the age of 18.】** If the obligor fails to comply with the court-ordered
42 payment schedule, the court **【shall】** may, upon receipt of a
43 certification of non-compliance from the obligee or Probation
44 Division, and without further hearing, order the immediate
45 revocation or suspension of all licenses held by the obligor. If
46 required by existing law or regulation, the court shall order that the

1 obligor surrender the license to the issuing authority within 30 days
2 of the date of the order.

3 (cf: P.L.1998, c.1, s.29)

4

5 3. Section 2 of P.L.1982, c.417 (C.2A:17-56.8) is amended to
6 read as follows:

7 2. Every complaint, notice or pleading for the entry or
8 modification of a support order and every court order which
9 includes child support shall include a written notice to the obligor
10 stating that the child support provision of the order shall, and the
11 health care coverage provision may, as appropriate, be enforced by
12 an income withholding upon the current or future income due from
13 the obligor's employer or successor employers and upon the
14 unemployment compensation benefits due the obligor and against
15 debts, income, trust funds, profits or income from any other source
16 due the obligor except as provided in section 3 of P.L.1981, c.417
17 (C.2A:17-56.9). The written notice shall also state that the driver's
18 license and professional or occupational licenses, or recreational or
19 sporting license in accordance with P.L.1996, c.7 (C.2A:17-56.41 et
20 seq.) held or applied for by the obligor may be denied, suspended or
21 revoked if: the child support arrearage is equal to or exceeds the
22 amount of child support payable for six months; the obligor fails to
23 provide health care coverage for the children as ordered by the court
24 for six months; or the obligor fails to respond to a subpoena relating
25 to a paternity or child support proceeding; or a warrant for the
26 obligor's arrest has been issued by the court due to failure to pay
27 child support as ordered, failure to appear at a hearing to establish
28 paternity or child support, or failure to appear at a hearing to
29 enforce a child support order and said warrant remains
30 outstanding. The written notice shall also state that the amount of
31 a child support order and the provisions for health care coverage
32 may be reviewed and updated when there has been a change in
33 circumstances or in accordance with section 5 of P.L.1990, c.92
34 (C.2A:17-56.9a).

35 The court shall ensure that in the case of each obligor against
36 whom a support order is or has been issued or modified, the
37 obligor's income shall be withheld to comply with the order. An
38 amount shall be withheld to pay the support obligation and it shall
39 include an amount to be applied toward liquidation of arrearages
40 reduced to judgments, payments for paternity testing procedures
41 and provisions for health care coverage when applicable. These
42 provisions shall also be applicable to all orders issued on or before
43 the effective date of P.L.1985, c.278 (C.2A:17-56.16 et seq.).

44 A support provision contained in an order or judgment issued by
45 the court shall be paid by income withholding unless the order or
46 judgment specifically provides for an alternative payment
47 arrangement to which the parties agree in writing or the obligor or

1 obligee demonstrates and the court finds good cause for establishing
2 an alternative arrangement.
3 (cf: P.L.1998, c.1, s.18).
4

5 4. Section 6. of P.L.1996, c.7 (C.2A:17-56.44) is amended to
6 read as follows:

7 6. a. The Probation Division shall provide the licensing
8 authority with a copy of the order requiring the suspension or
9 revocation of a license. Upon receipt of an order requiring the
10 suspension or revocation of a license, the licensing authority shall
11 immediately notify the licensee of the effective date of the
12 suspension or revocation, which shall be 20 days after the postmark
13 of the notice, direct the licensee to refrain from engaging in the
14 activity associated with the license, surrender any license as
15 required by law, and inform the licensee that the license shall not be
16 reinstated until the court or Probation Division certifies that the
17 conditions which resulted in the suspension or revocation are
18 satisfied. The Probation Division and the State IV-D agency in
19 association with the affected licensing authorities may develop
20 electronic or magnetic tape data transfers to notify licensing
21 authorities of restrictions, suspensions, revocations and
22 reinstatements. No liability shall be imposed on a licensing
23 authority for suspending or revoking a license if the action is in
24 response to a court order issued in accordance with P.L.1996,
25 c.7(C.2A:17-56.41 et seq.). Licensing authorities shall not have
26 jurisdiction to modify, remand, reverse, vacate or stay a court order
27 to restrict, suspend or revoke a license for non-payment of child
28 support.

29 b. If a licensee, upon receipt of the notice of suspension or
30 revocation from the licensing authority, disputes that he is an
31 obligor, the licensee shall notify the licensing authority and the
32 Probation Division by registered mail within 20 days of the
33 postmark of the notice and request a hearing. Upon receipt of the
34 licensee's request for a hearing, the Probation Division shall
35 determine if the licensee is an obligor. If the Probation Division
36 determines that the licensee is an obligor, the Probation Division
37 shall file a petition for a judicial hearing on the issue of whether the
38 licensee is an obligor. The hearing shall occur within 30 days. If
39 the Probation Division determines that the licensee is not an
40 obligor, the Probation Division shall so notify the licensee and the
41 licensing authority. The licensing authority shall not suspend or
42 revoke a person's license, if the licensing authority received proper
43 notice of the licensee's request for a hearing pursuant to this
44 subsection, until the court finds that the licensee is an obligor. The
45 Probation Division shall notify the licensing authority of the court's
46 finding. Upon receipt of the court's finding that the licensee is an
47 obligor, the licensing authority shall immediately suspend or revoke
48 the obligor's license without additional review or hearing.

1 c. The revocation or suspension of a license ordered by the
2 court in accordance with P.L.1996, c.7 (C.2A:17-56.41 et seq.) shall
3 continue until the Probation Division or the obligor files with the
4 licensing authority a certified court order restoring the license.

5 d. Each licensing authority shall require license applicants to
6 certify on the license application form, under penalty of perjury,
7 that the applicant does not have a child support obligation, the
8 applicant does have such an obligation but the arrearage amount
9 does not equal or exceed the amount of child support payable for
10 six months and any court-ordered health care coverage has been
11 provided for the past six months, or the applicant has not failed to
12 respond to a subpoena relating to a paternity or child support
13 proceeding~~], or the applicant is not the subject of a child-support~~
14 ~~related warrant]~~. A license shall not be granted to an obligor who
15 applies for a license if there is an arrearage equal to or exceeding
16 the amount of child support payable for six months, the applicant
17 has not provided court-ordered health care coverage during the past
18 six months or the applicant has failed to respond to a subpoena
19 relating to a paternity or child support proceeding ~~or is the subject~~
20 ~~of a child support-related warrant]~~. The application form shall state
21 that making a false statement may subject the applicant to contempt
22 of court. It shall also state that if the applicant's certification is
23 found to be false, the licensing authority shall take disciplinary
24 action including, but not limited to, immediate revocation or
25 suspension of the license.

26 e. For all licenses issued or renewed in the State after the
27 effective date of P.L.1996, c.7(C.2A:17-56.41 et seq.), the licensing
28 authority shall record the full name, mailing address, Social
29 Security number and date of birth of the applicant or licensee. All
30 affected licensing authorities shall cooperate and enter into
31 agreements with the Probation Division and the State IV-D agency
32 to exchange information to effectuate the purposes of P.L.1996,
33 c.7(C.2A:17-56.41 et seq.). The Division of Motor Vehicles in the
34 Department of Transportation and other appropriate licensing
35 agencies shall amend their regulations and public notices to permit
36 Social Security numbers collected by those agencies to be used for
37 child support enforcement purposes. License information obtained
38 through data matches with licensing authorities shall be maintained
39 on the State case registry in the Department of Human Services for
40 future use.

41 (cf: P.L.1998, c.1, s.30).

42
43 5. Section 4 of P.L.1997, c.172 (C.56.11-31) is amended to
44 read as follows:

45 4. a. A consumer reporting agency may furnish a consumer
46 report under the following circumstances and no other:

1 (1) In response to the order of a court having jurisdiction to
2 issue such an order, or a subpoena issued in connection with
3 proceedings before a State or federal grand jury.

4 (2) In accordance with the written instructions of the consumer
5 to whom it relates.

6 (3) To a person which it has reason to believe:

7 (a) intends to use the information in connection with a credit
8 transaction involving the consumer on whom the information is to
9 be furnished and involving the extension of credit to, or review or
10 collection of an account of, the consumer;

11 (b) intends to use the information for employment purposes;

12 (c) intends to use the information in connection with the
13 underwriting of insurance involving the consumer;

14 (d) intends to use the information in connection with a
15 determination of the consumer's eligibility for a license or other
16 benefit granted by a governmental instrumentality required by law
17 to consider an applicant's financial responsibility or status;

18 (e) intends to use the information, as a potential investor or
19 servicer, or current insurer, in connection with a valuation of, or an
20 assessment of the credit or prepayment risks associated with, an
21 existing credit obligation; or

22 (f) otherwise has a legitimate business need for the information:

23 (i) in connection with a business transaction that is initiated by
24 the consumer; or

25 (ii) to review an account to determine whether the consumer
26 continues to meet the terms of the account.

27 (4) In response to a request by the head of a State or local child
28 support enforcement agency (or a State or local government official
29 authorized by the head of such an agency), if the person making the
30 request certifies to the consumer reporting agency that:

31 (a) the consumer report is needed for the purpose of establishing
32 an individual's capacity to make child support payments or
33 determining the appropriate level of those payments;

34 (b) the paternity of the consumer for the child to which the
35 obligation relates has been established or acknowledged by the
36 consumer in accordance with State laws under which the obligation
37 arises (if required by those laws);

38 (c) **【**the person has provided at least 10 days' prior notice to the
39 consumer whose report is requested, by certified or registered mail
40 to the last known address of the consumer, that the report will be
41 requested; and

42 (d)**】** the consumer report will be kept confidential, will be used
43 solely for a purpose described in paragraph (1) of this subsection,
44 and will not be used in connection with any other civil,
45 administrative, or criminal proceeding, or for any other purpose.

46 (5) To an agency administering a state plan under 42 U.S.C.
47 s.654 for use to set an initial or modified child support award.

1 b. A consumer reporting agency may furnish a consumer report
2 for employment purposes only if:
3 (1) the person who obtains the report from the agency certifies
4 to the agency that:
5 (a) the person has complied with subsection c. of this section
6 with respect to the consumer report, and the person will comply
7 with subsection d. of this section with respect to the consumer
8 report if that subsection becomes applicable; and
9 (b) information from the consumer report will not be used in
10 violation of any applicable federal or state equal employment
11 opportunity law or regulation; and
12 (2) the consumer reporting agency provides with the report a
13 summary of the consumer's rights under the federal "Fair Credit
14 Reporting Act," 15 U.S.C. s.1681 et seq.
15 c. A person may not procure a consumer report, or cause a
16 consumer report to be procured, for employment purposes with
17 respect to any consumer, unless:
18 (1) a clear and conspicuous disclosure has been made in writing
19 to the consumer at any time before the report is procured or caused
20 to be procured, in a document that consists solely of the disclosure,
21 that a consumer report may be obtained for employment purposes;
22 and
23 (2) the consumer has authorized in writing the procurement of
24 the report by that person.
25 d. A consumer reporting agency shall not furnish for
26 employment purposes, or in connection with a credit or insurance
27 transaction or a direct marketing transaction, a consumer report that
28 contains medical information about a consumer unless the consumer
29 consents to the furnishing of the report in writing.
30 e. In using a consumer report for employment purposes, before
31 taking any adverse action based in whole or in part on the report,
32 the person intending to take an adverse action shall provide to the
33 consumer to whom the report relates:
34 (1) a copy of the report; and
35 (2) a description in writing of the rights of the consumer under
36 this act and the federal "Fair Credit Reporting Act," 15 U.S.C.
37 s.1681 et seq.
38 f. Consumer reporting agencies may furnish a consumer report
39 relating to any consumer pursuant to subparagraph (a) or (c) of
40 paragraph (3) of subsection a. of this section in connection with any
41 credit or insurance transaction that is not authorized by the
42 consumer only if the consumer reporting agency complies with the
43 requirements of subsections (c) and (e) of section 604 of the federal
44 "Fair Credit Reporting Act," 15 U.S.C. s.1681b.
45 g. A person shall not use or obtain a consumer report for any
46 purpose unless:

1 (1) the consumer report is obtained for a purpose for which the
2 consumer report is authorized to be furnished under this section;
3 and

4 (2) the purpose for its use is certified in accordance with section
5 5 of this act by a prospective user of the report.

6 (cf: P.L.1997,c.172,s.4).

7
8 6. This act shall take effect immediately.

9
10
11 STATEMENT

12
13 This bill establishes greater discretion in the court concerning
14 license suspension and credit reporting due to failure to pay child
15 support.

16 Section 1 amends N.J.S.A.2A:17-56.41 concerned with
17 consequences of an obligor's noncompliance, to make
18 discretionary, instead of mandatory, the suspension of an obligor's
19 license where arrearages equal or exceed the amount of child
20 support payable for six months or court-ordered health care
21 coverage for the child is not provided for six months. The
22 amendment further expressly permits an obligor to reach an
23 agreement with the Probation Division on a payment amount that is
24 approved by the court including the resumption of timely ongoing
25 support payments.

26 Section 2 amends N.J.S.A.2A:17-56.41 concerned with
27 suspension, revocation of license, to give the court discretion to
28 consider suspending or revoking a driver's license prior to a
29 professional or recreational license. The amendment further gives
30 the court discretion to allow the obligor to pay a lump sum, in lieu
31 of 25% of the past due child support amount, within a time frame
32 not to exceed ten days, instead of three days of the hearing, over a
33 longer period of five years, instead of one year to satisfy the
34 remainder of the arrearage. The amendment permits both an
35 extension and modification of the payment plan, upon a showing of
36 good cause. Further, the amendment deletes the provision of
37 N.J.S.A.2A:17-56.41 that provides a payment plan shall not extend
38 beyond the date the dependent child reaches the age of 18,
39 permitting a longer repayment period, in some instances.

40 Section 3 amends N.J.S.A.2A:17-56.8 concerned with the
41 enforcement of child support orders, to delete language permitting
42 denial, suspension or revocation of the driver's license and
43 professional or occupational licenses, or recreational or sporting
44 license held or applied for if a warrant for the obligor's arrest has
45 been issued by the court due to failure to pay child support as
46 ordered, failure to appear at a hearing to establish paternity or child
47 support, or failure to appear at a hearing to enforce a child support
48 order and said warrant remains outstanding.

1 Section 4 amends N.J.S..2A:17.56.44 concerned with suspension,
2 revocation procedures, clarifies certain certifications required by
3 licensing authorities, including that the applicant is not the subject
4 of a child-support related warrant.

5 Section 5 amends N.J.S.A.56:11-31 concerned with furnishing of
6 consumer report; permissible circumstances. The amendment
7 deletes the requirement that 10 days' notice has been provided to
8 the consumer whose report is requested by the head of a State or
9 local child support enforcement agency.