

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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SENATE DRS55058-LU-4* (1/27)

Short Title: Amend Child Support Enforcement Laws.-AB

(Public)

Sponsors: Senators Thomas; Metcalf and Rand.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY AND ENHANCE CHILD SUPPORT ENFORCEMENT
LAWS.

The General Assembly of North Carolina enacts:

- PART 1. LIQUIDATION
- PART 2. LICENSING BOARDS
- PART 3. PAY RECORDS
- PART 4. FINANCIAL INSTITUTIONS
- PART 5. EFFECTIVE DATES

PART 1. LIQUIDATION

SECTION 1. G.S. 50-13.4(c) reads as rewritten:

"(c) Payments ordered for the support of a minor child shall be in such amount as to meet the reasonable needs of the child for health, education, and maintenance, having due regard to the estates, earnings, conditions, accustomed standard of living of the child and the parties, the child care and homemaker contributions of each party, and other facts of the particular case. Payments ordered for the support of a minor child shall be on a monthly basis, due and payable on the first day of each month. The requirement that orders be established on a monthly basis does not affect the availability of garnishment of disposable earnings based on an obligor's pay period.

The court shall determine the amount of child support payments by applying the presumptive guidelines established pursuant to subsection (c1) of this section. However, upon request of any party, the Court shall hear evidence, and from the evidence, find the facts relating to the reasonable needs of the child for support and the relative ability of each parent to provide support. If, after considering the evidence, the Court finds by the greater weight of the evidence that the application of the guidelines would not meet or would exceed the reasonable needs of the child considering the relative ability of each

1 parent to provide support or would be otherwise unjust or inappropriate the Court may
2 vary from the guidelines. If the court orders an amount other than the amount
3 determined by application of the presumptive guidelines, the court shall make findings
4 of fact as to the criteria that justify varying from the guidelines and the basis for the
5 amount ordered.

6 Payments ordered for the support of a child shall terminate when the child reaches
7 the age of 18 except:

8 (1) If the child is otherwise emancipated, payments shall terminate at that
9 time;

10 (2) If the child is still in primary or secondary school when the child
11 reaches age 18, support payments shall continue until the child
12 graduates, otherwise ceases to attend school on a regular basis, fails to
13 make satisfactory academic progress towards graduation, or reaches
14 age 20, whichever comes first, unless the court in its discretion orders
15 that payments cease at age 18 or prior to high school graduation.

16 In the case of graduation, or attaining age 20, payments shall terminate without order
17 by the court, subject to the right of the party receiving support to show, upon motion
18 and with notice to the opposing party, that the child has not graduated or attained the
19 age of 20.

20 If an arrearage for child support or fees due exists at the time that a child support
21 obligation terminates for any reason, payments shall continue in the same total amount
22 that was due under the terms of the previous court order or income withholding in effect
23 at the time of the support obligation. The total amount of these payments is to be
24 applied to the arrearage until all arrearages and fees are satisfied or until further order of
25 the court."

26 **PART 2. LICENSING BOARDS**

27 **SECTION 2.** G.S. 93B-13(a) reads as rewritten:

28 "(a) Upon receipt of a court order, pursuant to G.S. 50-13.12, revoking the
29 occupational license of a licensee under its jurisdiction, an occupational licensing board
30 shall note the revocation in its ~~records~~-records, report the action within 30 days to the
31 Department of Health and Human Services, and follow the normal postrevocation rules
32 and procedures of the board as if the revocation had been ordered by the board. The
33 revocation shall remain in effect until the board receives certification by the clerk of
34 superior court that the licensee is no longer delinquent in child support payments, or, as
35 applicable, that the licensee is in compliance with or is no longer subject to the
36 subpoena that was the basis for the revocation."

37 **PART 3. PAY RECORDS**

38 **SECTION 3.1.** G.S. 110-132(a) reads as rewritten:

39 "(a) In lieu of or in conclusion of any legal proceeding instituted to establish
40 paternity, the written affidavits of parentage executed by the putative father and the
41 mother of the dependent child shall constitute an admission of paternity and shall have
42 the same legal effect as a judgment of paternity for the purpose of establishing a child
43 support obligation, subject to the right of either signatory to rescind within the earlier
44 of:

- 1 (1) 60 days of the date the document is executed, or
- 2 (2) The date of entry of an order establishing paternity or an order for the
- 3 payment of child support.

4 In order to rescind, a challenger must request the district court to order the rescission
5 and to include in the order specific findings of fact that the request for rescission was
6 filed with the clerk of court within 60 days of the signing of the document. The court
7 must also find that all parties, including the child support enforcement agency, if
8 appropriate, have been served in accordance with Rule 4 of the North Carolina Rules of
9 Civil Procedure. In the event the court orders rescission and the putative father is
10 thereafter found not to be the father of the child, then the clerk of court shall send a
11 copy of the order of rescission to the State Registrar of Vital Statistics. Upon receipt of
12 an order of rescission, the State Registrar shall remove the putative father's name from
13 the birth certificate. In the event that the putative father defaults or fails to present or
14 prosecute the issue of paternity, the trial court shall find the putative father to be the
15 biological father as a matter of law.

16 After 60 days have elapsed, execution of the document may be challenged in court
17 only upon the basis of fraud, duress, mistake, or excusable ~~neglect~~. neglect pursuant to
18 Rule 60 of the North Carolina Rules of Civil Procedure. The burden of proof shall be on
19 the challenging party, and the legal responsibilities, including child support obligations,
20 of any signatory arising from the executed documents may not be suspended during the
21 challenge except for good cause shown.

22 A written agreement to support the child by periodic payments, which may include
23 provision for reimbursement for medical expenses incident to the pregnancy and the
24 birth of the child, accrued maintenance and reasonable expense of prosecution of the
25 paternity action, when acknowledged as provided herein, filed with, and approved by a
26 judge of the district court at any time, shall have the same force and effect as an order of
27 support entered by that court, and shall be enforceable and subject to modification in the
28 same manner as is provided by law for orders of the court in such cases. The written
29 affidavit shall contain the social security number of the person executing the affidavit.
30 Voluntary agreements to support shall contain the social security number of each of the
31 parties to the agreement. The written affidavits and agreements to support shall be
32 sworn to before a certifying officer or notary public or the equivalent or corresponding
33 person of the state, territory, or foreign country where the affirmation, acknowledgment,
34 or agreement is made, and shall be binding on the person executing the same whether
35 the person is an adult or a minor. The child support enforcement agency shall ensure
36 that the mother and putative father are given oral and written notice of the legal
37 consequences and responsibilities arising from the signing of an affidavit of parentage
38 and of any alternatives to the execution of an affidavit of parentage. The mother shall
39 not be excused from making the affidavit on the grounds that it may tend to disgrace or
40 incriminate her; nor shall she thereafter be prosecuted for any criminal act involved in
41 the conception of the child as to whose paternity she attests."

42 **SECTION 3.2.** G.S. 110-139(b) reads as rewritten:

43 "(b) In order to carry out the responsibilities imposed under this Article, the
44 Department may request from any governmental department, board, commission,

1 bureau or agency information and assistance. All State, county and city agencies,
2 officers and employees shall cooperate with the Department in the location of parents
3 who have abandoned and deserted children with all pertinent information relative to the
4 location, income and property of such parents, notwithstanding any provision of law
5 making such information confidential. Except as otherwise stated in this subsection, all
6 All nonjudicial records maintained by the Department pertaining to child-support
7 enforcement shall be confidential, and only duly authorized representatives of social
8 service agencies, public officials with child-support enforcement and related duties, and
9 members of legislative committees shall have access to these records. The payment
10 history of an obligor pursuant to a support order may be examined by or released to the
11 court, the obligor, or the person on whose behalf enforcement actions are being taken or
12 that person's designee. Income and expense information of either parent may be released
13 to the other parent for the purpose of establishing or modifying a support order."

14 **SECTION 3.3.** G.S. 50-13.11(a1) reads as rewritten:

15 "(a1) The court shall order the parent of a minor child or other responsible party to
16 maintain health insurance for the benefit of the child when health insurance is available
17 at a reasonable cost. If health insurance is not presently available at a reasonable cost,
18 the court shall order the parent of a minor child or other responsible party to maintain
19 health insurance for the benefit of the child when health insurance becomes available at
20 a reasonable cost. As used in this subsection, health insurance is considered reasonable
21 in cost if it is employment related or other group health insurance, regardless of service
22 delivery mechanism. The court may require one or both parties to maintain dental
23 insurance."

24 **PART 4. FINANCIAL INSTITUTIONS**

25 **SECTION 4.** G.S. 110-139.2 is amended by adding a new subsection to
26 read:

27 "(b1) The Department of Health and Human Services Child Support Enforcement
28 Agency may notify any financial institution doing business in this State that a person
29 who maintains an account with the financial institution has a delinquent child support
30 obligation that may be eligible for levy on the account in an amount that satisfies some
31 or all of the delinquency. To qualify for levy, the child support obligation must have: (i)
32 arrears in an amount not less than the amount of support owed for three months or five
33 hundred dollars (\$500.00), whichever is less; and (ii) an identified account with the
34 financial institution.

35 Upon certification of the arrears amount, the Child Support Agency shall notify the
36 financial institution to initiate a lien on the account of the delinquent obligor and inform
37 the institution of the certified amount of arrears. Within five business days of receipt of
38 the notice, the financial institution shall proceed in the following manner:

39 (1) Immediately attach a lien to the identified account.

40 (2) Notify the Child Support Agency of the balance of the account and
41 date of the attachment or that the account does not meet the
42 requirement for attachment.

43 Within five business days following receipt of the notice of attachment, the Child
44 Support Agency shall notify the obligor of the action. The notice must inform the

1 obligor of the opportunity for removal of the lien through compliance with the child
2 support order or contest of the action. The Child Support Agency shall establish
3 procedures for review and contest of the action. If no satisfactory response is received
4 within 15 days of the date of the notice, the Child Support Agency shall notify the
5 financial institution to submit payment, up to the total amount of the child support
6 arrears, if available, to the North Carolina Child Support Enforcement Centralized
7 Collections. This amount is to be applied to the debt of the delinquent obligor.

8 This levy procedure is to be available for direct use by all states' child support
9 programs to financial institutions in this State."

10 **PART 5. EFFECTIVE DATES**

11 **SECTION 5.** Part 3 of this act becomes effective July 1, 2003. The
12 remainder of this act is effective when it becomes law.