

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

S

1

SENATE BILL 423*

Short Title: Amend Child Support Enforcement Laws.-AB (Public)

Sponsors: Senators Thomas, Metcalf, Rand; and Swindell.

Referred to: Judiciary II.

March 17, 2003

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 parent to provide support or would be otherwise unjust or inappropriate the Court may vary from the guidelines. If the court orders an amount other than the amount

1 determined by application of the presumptive guidelines, the court shall make findings
2 of fact as to the criteria that justify varying from the guidelines and the basis for the
3 amount ordered.

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

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

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

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

24 **PART 2. LICENSING BOARDS**

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

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

35 **PART 3. PAY RECORDS**

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

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

- 43 (1) 60 days of the date the document is executed, or

1 (2) The date of entry of an order establishing paternity or an order for the
2 payment of child support.

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

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

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

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

42 "(b) In order to carry out the responsibilities imposed under this Article, the
43 Department may request from any governmental department, board, commission,
44 bureau or agency information and assistance. All State, county and city agencies,

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

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

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

23 **PART 4. FINANCIAL INSTITUTIONS**

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

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

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

- 38 (1) Immediately attach a lien to the identified account.
39 (2) Notify the Child Support Agency of the balance of the account and
40 date of the attachment or that the account does not meet the
41 requirement for attachment.

42 Within five business days following receipt of the notice of attachment, the Child
43 Support Agency shall notify the obligor of the action. The notice must inform the
44 obligor of the opportunity for removal of the lien through compliance with the child

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

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

9 **PART 5. EFFECTIVE DATES**

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