

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 923

Short Title: Specify Time/Reinstate License/Child Support. (Public)

Sponsors: Representative L. Hall (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary Subcommittee B.

April 15, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE SPECIFIC TIME FRAMES FOR THE REINSTATEMENT OF
3 LICENSES THAT HAVE BEEN REVOKED FOR FAILURE TO PAY CHILD
4 SUPPORT.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 50-13.12 reads as rewritten:

7 **"§ 50-13.12. Forfeiture of licensing privileges for failure to pay child support or for**
8 **failure to comply with subpoena issued pursuant to child support or paternity**
9 **establishment proceedings.**

10 (a) As used in this section, the term:

11 (1) "Licensing board" means a department, division, agency, officer, board, or
12 other unit of state government that issues hunting, fishing, trapping, drivers,
13 or occupational licenses or licensing privileges.

14 (2) "Licensing privilege" means the privilege of an individual to be authorized
15 to engage in an activity as evidenced by hunting, fishing, or trapping
16 licenses, regular and commercial drivers licenses, and occupational,
17 professional, and business licenses.

18 (3) "Obligee" means the individual or agency to whom a duty of support is owed
19 or the individual's legal representative.

20 (4) "Obligor" means the individual who owes a duty to make child support
21 payments under a court order.

22 (5) "Occupational license" means a license, certificate, permit, registration, or
23 any other authorization issued by a licensing board that allows an obligor to
24 engage in an occupation or profession.

25 (b) Upon a finding by the district court judge that the obligor is willfully delinquent in
26 child support payments equal to at least one month's child support, or upon a finding that a
27 person has willfully failed to comply with a subpoena issued pursuant to a child support or
28 paternity establishment proceeding, and upon findings as to any specific licensing privileges
29 held by the obligor or held by the person subject to the subpoena, the court may revoke some or
30 all of such privileges until the obligor shall have paid the delinquent amount in full, or, as
31 applicable, until the person subject to the subpoena has complied with the subpoena. The court
32 may stay any such revocation pertaining to the obligor upon conditions requiring the obligor to
33 make full payment of the delinquency over time. Any such stay shall further be conditioned
34 upon the obligor's maintenance of current child support. The court may stay the revocation
35 pertaining to the person subject to the subpoena upon a finding that the person has complied



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1 with or is no longer subject to the subpoena. Upon an order revoking such privileges of an
2 obligor that does not stay the revocation, the clerk of superior court shall notify the appropriate
3 licensing board that the obligor is delinquent in child support payments and that the obligor's
4 licensing privileges are revoked until such time as the licensing board receives proof of
5 certification by the clerk that the obligor is no longer delinquent in child support payments.
6 Upon an order revoking such privileges of a person subject to the subpoena that does not stay
7 the revocation, the clerk of superior court shall notify the appropriate licensing board that the
8 person has failed to comply with the subpoena issued pursuant to a child support or paternity
9 establishment proceeding and that the person's licensing privileges are revoked until such time
10 as the licensing board receives proof of certification by the clerk that the person is in
11 compliance with or no longer subject to the subpoena.

12 (c) An obligor may file a request with the clerk of superior court for certification that
13 the obligor is no longer delinquent in child support payments upon submission of proof
14 satisfactory to the clerk that the obligor has paid the delinquent amount in full. A person whose
15 licensing privileges have been revoked under subsection (b) of this section because of a willful
16 failure to comply with a subpoena may file a request with the clerk of superior court for
17 certification that the person has met the requirements of or is no longer subject to the subpoena.
18 The clerk shall provide a form to be used for a request for certification. If the clerk finds that
19 the obligor has met the requirements for reinstatement under this subsection, then the clerk
20 shall certify that the obligor is no longer delinquent and shall provide a copy of the certification
21 to the obligor. ~~Upon request of the obligor, the~~The clerk shall mail a copy of the certification to
22 ~~the appropriate licensing board.~~board within three days from the date of the certification. If the
23 clerk finds that the person whose licensing privileges have been revoked under subsection (b)
24 of this section for failure to comply with a subpoena has complied with or is no longer subject
25 to the subpoena, then the clerk shall certify that the person has met the requirements of or is no
26 longer subject to the subpoena and shall provide a copy of the certification to the person. ~~Upon~~
27 ~~request of the person, the~~The clerk shall mail a copy of the certification to the appropriate
28 ~~licensing board.~~board within three days from the date of certification.

29 (d) If licensing privileges are revoked under this section, the obligor may petition the
30 district court for a reinstatement of such privileges. The court may order the privileges
31 reinstated conditioned upon full payment of the delinquency over time. Any order allowing
32 license reinstatement shall additionally require the obligor's maintenance of current child
33 support. If the licensing privileges of a person other than the obligor are revoked under this
34 section for failure to comply with a subpoena, the person may petition the district court for
35 reinstatement of the privileges. The court ~~may~~shall order the privileges reinstated if the person
36 has complied with or is no longer subject to the subpoena that was the basis for revocation.
37 Upon reinstatement under this subsection, the clerk of superior court shall certify that the
38 obligor is no longer delinquent and provide a copy of the certification to the obligor. ~~Upon~~
39 ~~request of the obligor, the~~The clerk shall mail a copy of the certification to the appropriate
40 ~~licensing board.~~board within three days from the date of certification. Upon reinstatement of
41 the person whose licensing privileges were revoked based on failure to comply with a
42 subpoena, the clerk of superior court shall certify that the person has complied with or is no
43 longer subject to the subpoena. ~~Upon request of the person whose licensing privileges are~~
44 ~~reinstated, and~~ the clerk shall mail a copy of the certification to the appropriate licensing
45 ~~board.~~board within three days from the date of certification.

46 (e) An obligor or other person whose licensing privileges are reinstated under this
47 section may provide a copy of the certification set forth in either subsection (c) or (d) of this
48 section to each licensing agency to which the obligor or other person applies for reinstatement
49 of licensing privileges. Upon request of the obligor or other person, the clerk shall mail a copy
50 of the certification to the appropriate licensing ~~board.~~board within three days from the date of

1 the request. Upon receipt of a copy of the certification, the licensing board shall reinstate the
2 ~~license~~ license within three days from the date certification is received.

3 (f) Upon receipt of notification by the clerk that an obligor's or other person's licensing
4 privileges are revoked pursuant to this section, the board shall note the revocation on its records
5 and take all necessary steps to implement and enforce the revocation. These steps shall not
6 include the board's independent revocation process pursuant to Chapter 150B of the General
7 Statutes, the Administrative Procedure Act, which process is replaced by the court process
8 prescribed by this section. The revocation pertaining to an obligor shall remain in full force and
9 effect until the board receives certification under this section that the obligor is no longer
10 delinquent in child support payments. The revocation pertaining to the person whose licensing
11 privileges were revoked on the basis of failure to comply with a subpoena shall remain in full
12 force and effect until the board receives certification of reinstatement under subsection (d) of
13 this section."

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

15 "(d) Immediately upon certification by the clerk of superior court or the child support
16 enforcement agency that the licensee whose license was revoked pursuant to subsection (a) or
17 (b) of this section is no longer delinquent in child support payments, the occupational licensing
18 board shall reinstate the ~~license~~ license within three days from the date the certification is
19 received. Immediately upon certification by the clerk of superior court or the child support
20 enforcement agency that the licensee whose license was revoked because of failure to comply
21 with a subpoena is in compliance with or no longer subject to the subpoena, the occupational
22 licensing board shall reinstate the ~~license~~ license within three days from the date the
23 certification is received. Reinstatement of a license pursuant to this section shall be made at no
24 additional cost to the licensee."

25 **SECTION 3.** G.S. 110-142.1 reads as rewritten:

26 "**§ 110-142.1. IV-D notified suspension, revocation, and issuance of occupational,**
27 **professional, or business licenses of obligors who are delinquent in**
28 **court-ordered child support or who are not in compliance with subpoenas**
29 **issued pursuant to child support or paternity establishment proceedings.**

30 (a) Effective July 1, 1996, the Department of Health and Human Services may notify
31 any board that a person licensed by that board is not in compliance with an order for child
32 support or has been found by the court not to be in compliance with a subpoena issued pursuant
33 to child support or paternity establishment proceedings.

34 (b) The designated representative shall submit a certified list with the names, social
35 security numbers, and last known address of individuals who are not in compliance with a child
36 support order or with a subpoena issued pursuant to a child support or paternity establishment
37 proceeding. The designated representative shall verify, under penalty of perjury, that the
38 individuals listed are subject to an order for the payment of support and are not in compliance
39 with the order, or have been found by the court to be not in compliance with a subpoena issued
40 pursuant to a child support or paternity establishment proceeding. The verification shall include
41 the name, address, and telephone number of the designated representative who certified the list.
42 An updated certified list shall be submitted to the Department on a monthly basis.

43 The Department of Health and Human Services, Division of Social Services, Child Support
44 Enforcement Office, shall consolidate the certified lists received from the designated
45 representatives and, within 30 calendar days of receipt, shall furnish each board with a certified
46 list of the individuals, as specified in this section.

47 (c) Each board shall coordinate with the Department of Health and Human Services,
48 Division of Social Services, Child Support Enforcement Office, in the development of forms
49 and procedures to implement this section.

50 (d) Promptly after receiving the certified list of individuals from the Department of
51 Health and Human Services, each board shall determine whether its applicant or licensee is an

1 individual on the list. If the applicant or licensee is on the list, the board shall immediately send
2 notice as specified in this subsection to the applicant or licensee of the board's intent to revoke
3 or suspend the licensee's license in 20 days from the date of the notice, or that the board is
4 withholding issuance or renewal of an applicant's license, until the designated representative
5 certifies that the applicant or licensee is entitled to be licensed or reinstated. The notice shall be
6 made personally or by certified mail to the individual's last known mailing address on file with
7 the board.

8 (e) Unless notified by the designated representative as provided in subsection (h) of this
9 section, the board shall revoke or suspend the individual's license 20 days from the date of the
10 notice to the individual of the board's intent to revoke or suspend the license. In the event that a
11 license is revoked or application is denied pursuant to this section, the board is not required to
12 refund fees paid by the individual.

13 (f) Notices shall be developed by each board in accordance with guidelines provided by
14 the Department of Health and Human Services and shall be subject to the approval of the
15 Department of Health and Human Services. The notice shall include the address and telephone
16 number of the designated representative who submitted the name on the certified list, and shall
17 emphasize the necessity of obtaining a certification of compliance from the designated
18 representative or the child support enforcement agency as a condition of issuance, renewal, or
19 reinstatement of the license. The notice shall inform the individual that if a license is revoked
20 or application is denied pursuant to this subsection, the board is not required to refund fees paid
21 by the individual. The Department of Health and Human Services shall also develop a form that
22 the individual shall use to request a review by the designated representative. A copy of this
23 form shall be included with every notice sent pursuant to subsection (d) of this section.

24 (g) The Department of Health and Human Services shall establish review procedures
25 consistent with this section to allow an individual to have the underlying arrearage and any
26 relevant defenses investigated, to provide an individual information on the process of obtaining
27 a modification of a support order, or, if the circumstances so warrant, to provide an individual
28 assistance in the establishment of a payment schedule on arrears.

29 (h) If the individual wishes to challenge the submission of the individual's name on the
30 certified list, or if the individual wishes to negotiate a payment schedule, the individual shall
31 within 14 days of the date of notice from the board request a review from the designated
32 representative. The designated representative shall within six days of the date of the request for
33 review notify the appropriate board of the request for review and direct the board to stay any
34 action revoking or suspending the individual's license until further notice from the designated
35 representative. The designated representative shall review the case and inform the individual in
36 writing of the representative's findings and decision upon completion of the review. If the
37 findings so warrant, the designated representative shall immediately send a notice to the
38 appropriate board within three days from the date of the decision certifying the individual's
39 compliance with this section. The agreement shall also provide for the maintenance of current
40 support obligations and shall be incorporated into a consent order to be entered by the court. If
41 the individual fails to meet the conditions of this subsection, the designated representative shall
42 notify the appropriate board to immediately revoke or suspend the individual's license. Upon
43 receipt of notice from the designated representative, the board shall immediately revoke or
44 suspend the individual's license.

45 (i) The designated representative shall notify the individual in writing that the
46 individual may, by filing a motion, request any or all of the following:

- 47 (1) Judicial review of the designated representative's decision.
- 48 (2) A judicial determination of compliance.
- 49 (3) A modification of the support order.

50 The notice shall also contain the name and address of the court in which the individual shall
51 file the motion and inform the individual that the individual's name shall remain on the certified

1 list unless the judicial review results in a finding by the court that the individual is in
2 compliance with this section. The notice shall also inform the individual that the individual
3 must comply with all statutes and rules of court regarding motions and notices of hearing and
4 that any motion filed under this section is subject to the limitations of G.S. 50-13.10.

5 (j) The motion for judicial review of the designated representative's decision shall state
6 the grounds for which review is requested and judicial review shall be limited to those stated
7 grounds. After service of the request for review, the court shall hold an evidentiary hearing at
8 the next regularly scheduled session for the hearing of child support matters in civil district
9 court. The request for judicial review shall be served by the individual upon the designated
10 representative who submitted the individual's name on the certified list within seven calendar
11 days of the filing of the motion.

12 (k) If the judicial review results in a finding by the court that the individual is no longer
13 in arrears or that the individual's license should be reinstated to allow the individual an
14 opportunity to comply with a payment schedule on arrears or reimbursement and current
15 support obligations, the designated representative shall immediately send a notice to the
16 appropriate board within three days from the date of the court's finding certifying the
17 individual's compliance with this section. If the judicial review results in a finding that the
18 individual has complied with or is no longer subject to the subpoena that was the basis for the
19 revocation, then the designated representative shall immediately send a notice to the
20 appropriate board within three days from the date of the court's finding certifying the
21 individual's compliance with this section. In the event of an appeal from judicial review, the
22 license revocation shall not be stayed unless the court specifically provides otherwise.

23 (l) The Department of Health and Human Services shall prescribe forms for use by the
24 designated representative. When the individual is no longer in arrears or negotiates an
25 agreement with the designated representative for a payment schedule on arrears or
26 reimbursement, the designated representative ~~shall~~ shall, within three days from the date of the
27 determination, mail to the individual and the appropriate board a notice certifying that the
28 individual is in compliance. The receipt of certification shall serve to notify the individual and
29 the board that, for the purposes of this section, the individual is in compliance with the order
30 for support. When the individual has complied with or is no longer subject to a subpoena issued
31 pursuant to a child support or paternity establishment proceeding, the designated representative
32 ~~shall~~ shall, within three days from the date of the determination, mail to the individual and the
33 appropriate board a notice certifying that the individual is in compliance. The receipt of
34 certification shall serve to notify the individual and the board that the individual is in
35 compliance with this section.

36 (m) The Department of Health and Human Services may enter into interagency
37 agreements with the boards necessary to implement this section.

38 (n) The procedures specified in Articles 3 and 3A of Chapter 150B of the General
39 Statutes, the Administrative Procedure Act, shall not apply to the denial or failure to issue or
40 renew a license pursuant to this section.

41 (o) Any board receiving an inquiry as to the licensed status of an applicant or licensee
42 who has had a license denied or revoked under this section shall respond only that the license
43 was denied or revoked pursuant to this section. Information collected pursuant to this section
44 shall be confidential and shall not be disclosed except in accordance with the laws of this State.

45 (p) If any provision of this section or its application to any person or circumstance is
46 held invalid, that invalidity shall not affect other provisions or applications of this section that
47 can be given effect without the invalid provision or application, and to this end the provisions
48 of this section are severable."

49 **SECTION 4.** G.S. 110-142.2 reads as rewritten:

50 **"§ 110-142.2. Suspension, revocation, restriction of license to operate a motor vehicle or**
51 **hunting, fishing, or trapping licenses; refusal of registration of motor vehicle.**

1 (a) Effective December 1, 1996, notwithstanding any other provision of law, when an
2 individual is at least 90 days in arrears in making child support payments, or has been found by
3 the court to be not in compliance with a subpoena issued pursuant to child support or paternity
4 establishment proceedings, the child support enforcement agency may apply to the court,
5 pursuant to the regular show cause and contempt provisions of G.S. 50-13.9(d), for an order
6 doing any of the following:

- 7 (1) Revoking the individual's regular or commercial license to operate a motor
8 vehicle;
- 9 (2) Revoking the individual's hunting, fishing, or trapping licenses;
- 10 (3) Directing the Department of Transportation, Division of Motor Vehicles, to
11 refuse, pursuant to G.S. 20-50.4, to register the individual's motor vehicle.

12 (b) Upon finding that the individual has willfully failed to comply with the child
13 support order or with a subpoena issued pursuant to child support proceedings, and that the
14 obligor is at least 90 days in arrears, or upon a finding that an individual subject to a subpoena
15 issued pursuant to child support or paternity establishment proceedings has failed to comply
16 with the subpoena, the court may enter an order instituting the sanctions as provided in
17 subsection (a) of this section. If an individual is adjudicated to be in civil or criminal contempt
18 for a third or subsequent time for failure to comply with a child support order, the court shall
19 enter an order instituting any one or more of the sanctions, if applicable, as provided in
20 subsection (a) of this section. The court may stay the effectiveness of the sanctions upon
21 conditions requiring the obligor to make full payment of the delinquency over time. Any
22 court-ordered payment plan under this subsection shall require the individual to extinguish the
23 delinquency within a reasonable period of time. In determining the amount to be applied to the
24 delinquency, the court shall consider the amount of the debt and the individual's financial
25 ability to pay. The payment shall not exceed the limits under G.S. 110-136.6(b). The individual
26 shall make an immediate initial payment representing at least five percent (5%) of the total
27 delinquency or five hundred dollars (\$500.00), whichever is less. Any stay of an order under
28 this subsection shall also be conditioned upon the obligor's maintenance of current child
29 support. The court may stay the effectiveness of the sanctions against an individual subject to a
30 subpoena issued pursuant to child support or paternity establishment proceedings upon a
31 finding that the individual has complied with or is no longer subject to the subpoena. Upon
32 entry of an order pursuant to this section that is not stayed, the individual shall surrender any
33 licenses revoked by the court's order to the child support enforcement agency and the agency
34 shall forward a report to the appropriate licensing authority within 30 days of the order.

35 (c) If the individual's regular or commercial drivers license is revoked under this section
36 and the court, after the hearing, makes a finding that a license to operate a motor vehicle is
37 necessary to the individual's livelihood, the court may issue a limited driving privilege, with
38 those terms and conditions applying as the court shall prescribe. An individual whose license
39 has been revoked for reasons not related to this section and whose license remains revoked at
40 the time of the hearing shall not be eligible and may not be issued a limited driving privilege.
41 The court may modify or revoke the limited driving privilege pursuant to G.S. 20-179.3(i).

42 (d) An individual may file a request with the child support enforcement agency for
43 certification that the individual is no longer delinquent in child support payments upon
44 submission of proof satisfactory to the child support enforcement agency that the individual has
45 paid the delinquent amount in full. An individual subject to a subpoena issued pursuant to a
46 child support or paternity establishment proceeding may file a request with the child support
47 enforcement agency for certification that the individual has complied with or is no longer
48 subject to the subpoena. The child support enforcement agency shall provide a form to be used
49 by the individual for a request for certification. If the child support enforcement agency finds
50 that the individual has met the requirements for reinstatement under this subsection, then the
51 child support enforcement agency ~~shall~~ shall, within three days from the date of the finding,

1 certify that the individual is no longer delinquent or that the individual has complied with or is
2 no longer subject to a subpoena issued pursuant to child support or paternity establishment
3 proceedings and shall provide a copy of the certification to the individual.

4 (e) If licensing privileges are revoked under this section, the individual may petition the
5 district court for a reinstatement of such privileges. The court may order the privileges
6 reinstated conditioned upon full payment of the delinquency over time, ~~or~~ or as applicable, ~~may~~
7 shall order the reinstatement if the court finds that the individual has complied with or is no
8 longer subject to the subpoena issued pursuant to paternity establishment proceedings. Any
9 order allowing license reinstatement shall additionally require the obligor's maintenance of
10 current child support. Upon reinstatement under this subsection, the child support enforcement
11 agency shall ~~certify~~ certify, within three days from the date of the court's order, that the
12 individual is no longer delinquent, or, as applicable, that the individual has complied with or is
13 no longer subject to the subpoena issued pursuant to child support or paternity establishment
14 proceedings and shall provide a copy of the certification to the individual, as applicable.

15 (f) Upon receipt of certification under subsection (d) or (e) of this section, the Division
16 of Motor Vehicles ~~shall~~ shall, within three days from the date the certification is received,
17 reinstate the license to operate a motor vehicle in accordance with G.S. 20-24.1, and remove
18 any restriction of the individual's motor vehicle registration.

19 (g) Upon receipt of certification under subsection (d) or (e) of this section, the licensing
20 board having jurisdiction over the individual's hunting, fishing, or trapping license shall
21 reinstate the ~~license~~ license within three days from the date the certification is received.

22 (h) If the court imposes sanctions under subdivision (3) of subsection (a) of this section
23 and the sanctions are stayed upon conditions as provided in subsection (b) of this section, the
24 child support enforcement agency may, without any further application to the court, notify the
25 Division of Motor Vehicles if the individual violates the terms and conditions of the stay. The
26 Division shall then take such action as provided in subdivision (3) of subsection (a) of this
27 section. The Division shall not remove any restriction of the individual's motor vehicle
28 registration, until receipt of certification pursuant to subsection (d) or (e) of this section.

29 (i) The Department of Health and Human Services, the Administrative Office of the
30 Courts, the Division of Motor Vehicles, and the Department of Environment and Natural
31 Resources shall work together to develop the forms and procedures necessary for the
32 implementation of this process."

33 **SECTION 5.** This act becomes effective October 1, 2013, and shall apply to
34 reinstatements of licenses on or after that date.