

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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**SENATE BILL 423*
Judiciary II Committee Substitute Adopted 4/7/03**

Short Title: Amend Child Support Enforcement Laws.-AB

(Public)

Sponsors:

Referred to:

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, payments shall continue in the same total amount that was due
20 under the terms of the previous court order or income withholding in effect at the time
21 of the support obligation. The total amount of these payments is to be applied to the
22 arrearage until all arrearages and fees are satisfied or until further order of the court."

23 **SECTION 1.1.** G.S. 110-135 reads as rewritten:

24 "**§ 110-135. Debt to State created.**

25 Acceptance of public assistance by or on behalf of a dependent child creates a debt,
26 in the amount of public assistance paid, due and owing the State by the responsible
27 parent or parents of the child. Provided, however, that in those cases in which child
28 support was required to be paid incident to a court order during the time of receipt of
29 public assistance, the debt shall be limited to the amount specified in such court order.
30 This liability shall attach only to public assistance granted subsequent to June 30, 1975,
31 and only with respect to the period of time during which public assistance is granted,
32 and only if the responsible parent or parents were financially able to furnish support
33 during this period.

34 The United States, the State of North Carolina, and any county within the State
35 which has provided public assistance to or on behalf of a dependent child shall be
36 entitled to share in any sum collected under this section, and their proportionate parts of
37 such sum shall be determined in accordance with the matching formulas in use during
38 the period for which assistance was paid.

39 No action to collect such debt shall be commenced after the expiration of five years
40 subsequent to the receipt of the last grant of public assistance. The county attorney or an
41 attorney retained by the county and/or State shall represent the State in all proceedings
42 brought under this section.

43 Upon the termination of a child support obligation due to the death of the obligor,
44 the Department shall determine whether the obligor's estate contains sufficient assets to

1 satisfy any child support arrearages. If sufficient assets are available, the Department
2 shall attempt to collect the arrearage."

3 **PART 2. LICENSING BOARDS**

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

5 "(a) Upon receipt of a court order, pursuant to G.S. ~~50-13.12~~, 50-13.12 and G.S.
6 110-142.1, revoking the occupational license of a licensee under its jurisdiction, an
7 occupational licensing board shall note the revocation in its ~~records~~-records, report the
8 action within 30 days to the Department of Health and Human Services, and follow the
9 normal postrevocation rules and procedures of the board as if the revocation had been
10 ordered by the board. The revocation shall remain in effect until the board receives
11 certification by the clerk of superior court or the Department of Health and Human
12 Services in an IV-D case, that the licensee is no longer delinquent in child support
13 payments, or, as applicable, that the licensee is in compliance with or is no longer
14 subject to the subpoena that was the basis for the revocation."

15 **PART 3. PAY RECORDS**

16 **SECTION 3.1.** G.S. 110-139(b) reads as rewritten:

17 "(b) In order to carry out the responsibilities imposed under this Article, the
18 Department may request from any governmental department, board, commission,
19 bureau or agency information and assistance. All State, county and city agencies,
20 officers and employees shall cooperate with the Department in the location of parents
21 who have abandoned and deserted children with all pertinent information relative to the
22 location, income and property of such parents, notwithstanding any provision of law
23 making such information confidential. Except as otherwise stated in this subsection, all
24 All-nonjudicial records maintained by the Department pertaining to child-support
25 enforcement shall be confidential, and only duly authorized representatives of social
26 service agencies, public officials with child-support enforcement and related duties, and
27 members of legislative committees shall have access to these records. The payment
28 history of an obligor pursuant to a support order may be examined by or released to the
29 court, the obligor, or the person on whose behalf enforcement actions are being taken or
30 that person's designee. Income and expense information of either parent may be released
31 to the other parent for the purpose of establishing or modifying a support order."

32 **SECTION 3.2.** G.S. 50-13.11(a1) reads as rewritten:

33 "(a1) The court shall order the parent of a minor child or other responsible party to
34 maintain health insurance for the benefit of the child when health insurance is available
35 at a reasonable cost. If health insurance is not presently available at a reasonable cost,
36 the court shall order the parent of a minor child or other responsible party to maintain
37 health insurance for the benefit of the child when health insurance becomes available at
38 a reasonable cost. As used in this subsection, health insurance is considered reasonable
39 in cost if it is employment related or other group health insurance, regardless of service
40 delivery mechanism. The court may require one or both parties to maintain dental
41 insurance."

42 **PART 4. FINANCIAL INSTITUTIONS**

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

1 **"(b1) The Department of Health and Human Services Child Support Enforcement**
2 **Agency may notify any financial institution doing business in this State that a person**
3 **who maintains an account with the financial institution has a delinquent child support**
4 **obligation that may be eligible for levy on the account in an amount that satisfies some**
5 **or all of the delinquency. To qualify for levy, the child support obligation must have: (i)**
6 **arrears in an amount not less than the amount of support owed for six months or one**
7 **thousand dollars (\$1,000), whichever is less; and (ii) an identified account with the**
8 **financial institution.**

9 **Upon certification of the arrears amount in accordance with G.S. 44-86(c), the Child**
10 **Support Agency shall serve or cause to be served upon the obligor and the financial**
11 **institution a notice as provided by this subsection. The notice may be served in any**
12 **manner provided in Rule 4 of the North Carolina Rules of Civil Procedure and shall**
13 **include the name of the obligor, the financial institution where the account is located,**
14 **the account number of the account to be levied, the certified arrears amount,**
15 **information for the obligor on how to remove the lien or contest the lien, and a copy of**
16 **the applicable law, G.S. 110-139.2. Upon service of the notice, the financial institution**
17 **shall proceed in the following manner:**

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

19 **(2) Notify the Child Support Agency of the balance of the account and**
20 **date of the attachment or that the account does not meet the**
21 **requirement for attachment.**

22 **Within 10 days of service of the notice, the obligor must contest the lien in writing**
23 **to the Child Support Agency, request a hearing before the district court in the county**
24 **where the support order was entered, and give notice to the Child Support Agency of the**
25 **basis for the contest upon which the request for the hearing is based. The lien may be**
26 **contested only on the basis that the obligation is an amount less than the amount of**
27 **support owed for six months, or is less than one thousand dollars (\$1,000), or the**
28 **obligor is not the person subject to the court order of support. The district court may**
29 **assess court costs against the losing party. If no response is received from the obligor**
30 **within 10 days of the service of the notice, the Child Support Agency shall notify the**
31 **financial institution to submit payment, up to the total amount of the child support**
32 **arrears, if available. This amount is to be applied to the debt of the delinquent obligor.**

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

35 **PART 5. EFFECTIVE DATES**

36 **SECTION 5.** Part 3 of this act becomes effective July 1, 2003. The
37 remainder of this act is effective when it becomes law, except for Part 4 which becomes
38 effective 90 days after this act becomes law.