

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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**SENATE BILL 423*
Judiciary II Committee Substitute Adopted 4/7/03
House Committee Substitute Favorable 6/9/03**

Short Title: Amend Child Support Enforcement Laws.-AB

(Public)

Sponsors:

Referred to:

March 17, 2003

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY AND ENHANCE CHILD SUPPORT ENFORCEMENT
2 LAWS.
3

4 The General Assembly of North Carolina enacts:

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

10
11 **PART 1. LIQUIDATION**

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

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

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

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

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

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

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

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

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

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

25 **"§ 110-135. Debt to State created.**

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

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

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

1 Upon the termination of a child support obligation due to the death of the obligor,
2 the Department shall determine whether the obligor's estate contains sufficient assets to
3 satisfy any child support arrearages. If sufficient assets are available, the Department
4 shall attempt to collect the arrearage."

5 **PART 2. LICENSING BOARDS**

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

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

17 **PART 3. PAY RECORDS**

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

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

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

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

44 **PART 4. FINANCIAL INSTITUTIONS**

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

3 "(b1) The Department of Health and Human Services Child Support Enforcement
4 Agency may notify any financial institution doing business in this State that an obligor
5 who maintains an identified account with the financial institution has a delinquent child
6 support obligation that may be eligible for levy on the account in an amount that
7 satisfies some or all of the delinquency. In order to be able to attach a lien on and levy
8 an obligor's account, the obligor's child support obligation shall be in arrears in an
9 amount not less than the amount of support owed for six months or one thousand dollars
10 (\$1,000), whichever is less.

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

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

21 (2) Notify the Child Support Agency of the balance of the account and
22 date of the lien or that the account does not meet the requirement for
23 levy under this subsection.

24 In order for an obligor to contest the lien, within 10 days after the obligor is served
25 with the notice, the obligor shall send written notice of the basis of the obligor's contest
26 to the Child Support Agency and shall request a hearing before the district court in the
27 county where the support order was entered. The lien may be contested only on the
28 basis that the arrearage is an amount less than the amount of support owed for six
29 months, or is less than one thousand dollars (\$1,000), or the obligor is not the person
30 subject to the court order of support. The district court may assess court costs against
31 the nonprevailing party. If no response is received from the obligor within 10 days of
32 the service of the notice, the Child Support Agency shall notify the financial institution
33 to submit payment, up to the total amount of the child support arrears, if available. This
34 amount is to be applied to the debt of the delinquent obligor.

35 A financial institution shall not be liable to any person for complying in good faith
36 with this subsection.

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

39 **PART 5. EFFECTIVE DATES**

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