



SPONSOR:

Rep. Dorsey Walker & Rep. Minor-
Brown & Sen. Hoffner

Reps. Baumbach, Morrison, Romer

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 267

AN ACT TO AMEND TITLE 13 OF THE DELAWARE CODE RELATING TO VIOLATIONS OF CHILD SUPPORT ORDERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 516, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 516. Violation of support order for spouse or child; proceedings; contempt; assignment of income; employer's duties.

(a) If the Court, after notice to defendant and a hearing on a rule to show cause, concludes that the defendant has violated the terms of an order of support for a spouse or child, it may punish such defendant for contempt and may attach the defendant's income. Such punishment may not include incarceration unless the defendant's failure to pay was wilful and not due to an inability to pay support. In any case enforced under Title IV, Part D, of the Social Security Act (42 U.S.C. § 651 et seq.), the income of a person with a support obligation imposed by a support order issued (or modified) in this State before October 1, 1996, if not otherwise subject to withholding under § 513 of this title, shall, by operation of law, become subject to withholding as provided in § 513 of this title if arrearages occur, without the need for a hearing.

(e) Upon a finding by the Court of a violation of a support order after notice to a defendant and a hearing on a rule to show cause, and in the case of a defendant who derives income from self-employment by an employer not subject to the jurisdiction of the Court, or from any other type of employment which makes the attachment of income impractical, the Court shall require the person to enter into bond or other adequate collateral security, with or without sureties, to secure payment of the obligation to the Court in the amount of the past-due support plus a sum fixed by the Court to insure the payment of support as it becomes due for a period of not less than 3 months, conditioned upon the person making payment as previously ordered. The Court may order the cancellation of the bond or other collateral security upon proof of full payment of past-due and current support pursuant to the support order, as follows:

(1) The Court may order the cancellation of a bond or other collateral security imposed for a first violation of support order after proof of full payment of past-due and current support ~~payments;~~ payments.

(2) The Court may order the cancellation of a bond or other collateral security imposed for a second violation of support order 12 months after proof of full payment of past-due and current support ~~payments; and~~ payments.

(3) The Court may order the cancellation of a bond or other collateral security imposed for a third violation of support order 24 months after proof of full payment of past-due and current support payments.

(g) Upon a finding by the Court that an obligor owes \$1,000 or more in arrears or retroactive ~~support and support,~~ is 30 or more days delinquent in payment of the child support order, and the failure to pay such arrears or retroactive support is wilful and not due to an inability to pay, in addition to any other orders, the Court may order the suspension of the obligor's license, as that term is defined in § 2216 of this title. Such an order shall also render the obligor ineligible for the issuance or renewal of any such license.

In all cases administered under Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.), the Court shall forward such order to the Director of the Division of Child Support Services to be carried out pursuant to § 2216(g) of this title. In all other instances, the Court shall notify the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and/or the Director of the Division of Professional Regulation of the denial or suspension of a license pursuant to this subsection. Such notification may be made electronically, by computer or by such other means as the Court and the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and the Director of the Division of Professional Regulation may agree, and such notification shall constitute sufficient authority for the denial or suspension of any license.

The Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and/or the Director of the Division of Professional Regulation shall forthwith deny the issuance or renewal of any license, or suspend the same, and so notify the obligor. The order of the Court shall be conclusive, and the action of the Director of the Division of Motor Vehicles, the Director of the Division of Revenue, the Director of the Division of Fish and Wildlife and/or the Director of the Division of Professional Regulation in compliance therewith shall be effective 4 days after the date notice of same is mailed to the obligor at the address on record at the Division of Motor Vehicles, the Division of Revenue, the Division of Fish and Wildlife or the Division of Professional Regulation.

The obligor shall remain ineligible for the issuance, renewal or reinstatement of any license until the obligor obtains from the Court written certification that the grounds for denial or suspension of a license under this subsection no longer exist. Nothing in this subsection shall be construed as limiting the denial or suspension of any license as provided in § 2216 of this title.

(h) Notwithstanding any contrary provision of this chapter or Chapter 22 of this title, the Court may, in a pending proceeding related to child support, order the removal of any or all restrictions on licensed privileges proposed or imposed related to a failure to pay child support, and without regard to whether the suspension or revocation was a result of the action of the Court or the Division of Child Support Services where the removal of such restrictions is in the best interests of the child or ~~children~~ children and the parties as it relates to the ability of the obligor to meet the obligor's parental obligations. The Court shall establish rebuttable standards in consultation with the Division of Child Support Services to insure the uniform and equitable application of the license suspension program.

SYNOPSIS

This Act prohibits the Family Court from imposing a sentence of incarceration or ordering the suspension of a person's license for failure to pay court-ordered child support unless it finds that the failure to pay is wilful and not due to an inability of the person to pay the support.

This Act also makes technical corrections to correct a typographical error in existing code and to conform existing law to the standards of the Delaware Legislative Drafting Manual.