

2023 HOUSE JUDICIARY

HB 1308

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1308
2/6/2023

Relating to suspension of recreational licenses for delinquent child support payments; and to provide for retroactive application
--

10:42 A.M. Chairman Klemin opened the hearing.

Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Cory, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom, Rep. Schneider, Rep. VanWinkle, and Rep. Vetter

Discussion Topics:

- Child support payments.
- Withdraw license in light of missed child support
- Discussed arrears.

Rep. Shannon Roers Jones: Introduced the bill. Testimony #19223

Travis Finck, Executive Director, UCCLI: No written testimony.

Mark Jorritsma, Executive Director, ND Family Alliance: Testimony #19181

Jim Fleming, Director of Child Support: DHHS: No written testimony.

Additional written testimony:

Mark Friese, Vogel Law Firm: Testimony #19168

Hearing closed at 11:19 AM.

Delores Shimek, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Room JW327B, State Capitol

HB 1308
2/8/2023

Relating to suspension of recreational licenses for delinquent child support payments; and to provide for retroactive application
--

2:54 PM Chairman Klemin opened the meeting.

Members present: Chairman Klemin, Vice Chairman Karls, Rep. Bahl, Rep. Christensen, Rep. Henderson, Rep. S. Olson, Rep. Rios, Rep. S. Roers Jones, Rep. Satrom,, Rep. Schneider, Rep. VanWinkle, and Rep. Vetter

Members absent: Rep. Cory

Discussion Topics:

- Committee action

Rep. Shannon Roers Jones: Submitted an amendment. (Testimony #19999, 20000).

Rep. Shannon Roers Jones moved the amendment 23.0786.01002

Seconded by Rep. Bahl

Committee Discussion

Representative. Shannon Roers Jones withdrew her amendment as she wished to amend her initial amendment.

Representative Shannon Roers Jones moved the amendment 23.0786.01003.

Representative Bahl seconded.

Roll call vote:

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	Y
Representative Cole Christensen	Y
Representative Claire Cory	AB
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y

Representative Mary Schneider	N
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y

Motion carries 11-1-1.

Representative Christenson moved a do pass as amended.

Representative Bahl seconded.

Roll call vote:

Representatives	Vote
Representative Lawrence R. Klemin	Y
Representative Karen Karls	Y
Representative Landon Bahl	Y
Representative Cole Christensen	Y
Representative Claire Cory	AB
Representative Donna Henderson	Y
Representative SuAnn Olson	Y
Representative Nico Rios	Y
Representative Shannon Roers Jones	Y
Representative Bernie Satrom	Y
Representative Mary Schneider	N
Representative Lori VanWinkle	Y
Representative Steve Vetter	Y

Motion carries 11-1-1. Representative Shannon Roers Jones.

Meeting closed at 3:15 PM.

Delores Shimek, Committee Clerk

74
2-8-23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1308

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "14-08.1-06" insert "and 50-09-08.6"

Page 1, line 2, remove "and"

Page 1, line 3, after "application" insert "; and to provide a contingent expiration date"

Page 2, after line 12, insert:

"SECTION 2. AMENDMENT. Section 50-09-08.6 of the North Dakota Century Code is amended and reenacted as follows:

50-09-08.6. Suspension of ~~occupational, professional,~~ recreational, motor vehicle operator, and vehicle licenses and registrations for nonpayment of child support or failure to obey subpoena.

1. As used in this section:

a. "License" means:

(1) ~~Any certificate, permit, or license issued by an agency of the state or a political subdivision of the state which the obligor is required to obtain prior to engaging in the obligor's occupation or profession;~~

(2) Any certificate, permit, or license issued by an agency of the state which the obligor is required to obtain prior to engaging in a recreational activity; and

~~(3)~~(2) Any operator's license or vehicle license or registration which the obligor is required to obtain prior to operating or owning a vehicle in this state. As used in this section, "vehicle" includes any motor vehicle as defined in section 39-01-01, aircraft, snowmobile, motorboat, or personal watercraft.

b. "Licensee" means a person who has applied for or currently possesses a license.

c. "Licensing authority" means an agency of the state or a political subdivision of the state that issues a license, including ~~occupational or professional boards,~~ the game and fish department, and the department of transportation.

d. "Restrict", as it relates to the operator's license of an obligor or a person who fails to comply with a subpoena, includes the authority of the state agency to authorize the issuance, upon request for good cause, of a restricted operator's license that is solely for the use of a motor vehicle during the licensee's normal working hours.

2. The state agency, directly or through agents and child support agencies, may withhold, restrict, or suspend one or more licenses issued to:

2-8-23

- a. A person who has failed, after receiving proper notice, to comply with a subpoena relating to a paternity or child support matter;
 - b. An obligor who is listed on the arrears registry; or
 - c. An obligor who is not in compliance with an existing payment plan that has been negotiated between the obligor and the state agency under this section or in exchange for the state agency refraining from taking an enforcement action against the obligor.
3. Before withholding, restricting, or suspending a license under subdivision a or b of subsection 2, the state agency shall send a notice to the licensee by first-class mail to the licensee's last-known address stating that the licensee has thirty days after the date of the notice to comply with the subpoena, satisfy the arrearage in full, or negotiate a payment plan with the state agency under this section. The notice must further state that the licensee may contest the action of the state agency by making a written request for a court hearing under subsection 5 within ten days of the date of the notice.
 4. Upon notice to the licensee, the state agency may withhold, restrict, or suspend a license under subdivision c of subsection 2 at any time if the licensee fails to comply with a payment plan negotiated under this section. A copy of the state agency's order to withhold, restrict, or suspend a license must be sent to the licensee by first-class mail to the licensee's last-known address. The order must state that the licensee may contest the action of the state agency by making a written request for a court hearing under subsection 5 within ten days of the date of the order.
 5. A request for a hearing under this section must be made to the court that issued or considered the child support order. If a child support order was issued by a court or administrative tribunal in another jurisdiction, the request may be made to any court of this state which has jurisdiction to enforce that order or, if no court of this state has jurisdiction to enforce that order, in any court of this state with jurisdiction over the licensee.
 6. In a contest under this section, the court shall affirm the action of the state agency to withhold, restrict, or suspend a license unless the court finds that the state agency's decision was arbitrary, unreasonable, or capricious.
 7. The state agency shall notify the appropriate licensing authority that the state agency has withheld, restricted, or suspended a license under this section. A license that is withheld, restricted, or suspended by the state agency under this section may be reinstated only by the state agency after the licensee complies with the subpoena, satisfies the arrearage in full, or enters into a payment plan with the state agency under this section.
 8. An obligor and the state agency may enter into a payment plan under which the obligor agrees to satisfy the obligor's total child support obligation, including arrears, within a period not to exceed ten years. A payment plan under this section must require the obligor to make an immediate payment to the state disbursement unit in an amount equal to five percent of the total arrears owed by the obligor or five hundred dollars, whichever is greater. The state agency may waive or reduce the immediate payment that is due under a payment plan if the obligor's current or most

2-8-23

recent monthly support obligation is less than five hundred dollars. The state agency may require that a payment plan under this section include satisfaction of all court-ordered child support obligations of the obligor. The obligor's current or most recent monthly support obligation under section 14-09-09.30 must be considered when determining the duration of a payment plan under this section and the payments due under the agreement. A payment plan under this section is not a modification of any child support obligation of the obligor and does not bar judicial review of a child support order under section 14-09-08.4 or other enforcement actions by the obligee or the state agency.

- 9. An action of the state agency to withhold, restrict, or suspend a license under this section may not be appealed to the state agency or to the licensing authority, including an appeal under chapter 28-32. Section 50-09-14 does not apply to actions taken by the state agency under this section.
- 10. Except for statistical purposes, an entry on the driving record or abstract of a restriction or suspension under this section after the restriction or suspension ceases may not be available to the public other than by order of a court of competent jurisdiction.
- 11. A licensing authority and any person acting on its behalf is not liable for any actions taken to withhold, restrict, or suspend a license under this section. This section does not limit the ability of a licensing authority to withhold, restrict, or suspend a license on any other grounds authorized by law."

Page 2, after line 14, insert:

"SECTION 4. CONTINGENT EXPIRATION DATE. Section 1 of this Act is effective until the date the executive director of the department of health and human services notifies the legislative council that the enactment of sections 1 and 2 of this Act causes the state to be out of compliance with 42 U.S.C. 666(a)(16), and after that date is ineffective."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1308: Judiciary Committee (Rep. Klemin, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1308 was placed on the Sixth order on the calendar.

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 - (2) Any certificate, permit, or license issued by an agency of the state which the obligor is required to obtain prior to engaging in a recreational activity; and
 - (3)(2) Any operator's license or vehicle license or registration which the obligor is required to obtain prior to operating or owning a vehicle in this state. As used in this section, "vehicle" includes any motor vehicle as defined in section 39-01-01, aircraft, snowmobile, motorboat, or personal watercraft.
 - b. "Licensee" means a person who has applied for or currently possesses a license.
 - c. "Licensing authority" means an agency of the state or a political subdivision of the state that issues a license, including ~~occupational or professional boards,~~ the game and fish department, and the department of transportation.
 - d. "Restrict", as it relates to the operator's license of an obligor or a person who fails to comply with a subpoena, includes the authority of the state agency to authorize the issuance, upon request for good cause, of a restricted operator's license that is solely for the use of a motor vehicle during the licensee's normal working hours.
2. The state agency, directly or through agents and child support agencies, may withhold, restrict, or suspend one or more licenses issued to:
 - a. A person who has failed, after receiving proper notice, to comply with a subpoena relating to a paternity or child support matter;

- b. An obligor who is listed on the arrears registry; or
 - c. An obligor who is not in compliance with an existing payment plan that has been negotiated between the obligor and the state agency under this section or in exchange for the state agency refraining from taking an enforcement action against the obligor.
3. Before withholding, restricting, or suspending a license under subdivision a or b of subsection 2, the state agency shall send a notice to the licensee by first-class mail to the licensee's last-known address stating that the licensee has thirty days after the date of the notice to comply with the subpoena, satisfy the arrearage in full, or negotiate a payment plan with the state agency under this section. The notice must further state that the licensee may contest the action of the state agency by making a written request for a court hearing under subsection 5 within ten days of the date of the notice.
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 5. A request for a hearing under this section must be made to the court that issued or considered the child support order. If a child support order was issued by a court or administrative tribunal in another jurisdiction, the request may be made to any court of this state which has jurisdiction to enforce that order or, if no court of this state has jurisdiction to enforce that order, in any court of this state with jurisdiction over the licensee.
 6. In a contest under this section, the court shall affirm the action of the state agency to withhold, restrict, or suspend a license unless the court finds that the state agency's decision was arbitrary, unreasonable, or capricious.
 7. The state agency shall notify the appropriate licensing authority that the state agency has withheld, restricted, or suspended a license under this section. A license that is withheld, restricted, or suspended by the state agency under this section may be reinstated only by the state agency after the licensee complies with the subpoena, satisfies the arrearage in full, or enters into a payment plan with the state agency under this section.
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payments due under the agreement. A payment plan under this section is not a modification of any child support obligation of the obligor and does not bar judicial review of a child support order under section 14-09-08.4 or other enforcement actions by the obligee or the state agency.

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Renumber accordingly

TESTIMONY

HB 1308



Phone: 701.237.6983
218 NP Avenue | PO Box 1389
Fargo, ND 58107-1389
mfriese@vogellaw.com

February 5, 2023

The Honorable Lawrence R. Klemin
Chair, ND House Judiciary Committee
600 East Boulevard Avenue
Bismarck, ND 58505

Submitted electronically only:

Re: Testimony in support of HB 1380

Dear Chairman Klemin and members of the House Judiciary Committee,

I write individually in support of HB1308. I am an attorney in private practice in Fargo. I am a lifelong North Dakota resident, currently residing in Legislative District 45. Prior to law school, I served as a Bismarck Police officer. I retired from the North Dakota Army National Guard after serving twenty-four years.

House Bill 1308 would amend and reenact N.D.C.C. § 14-08.1-06. This statute permits suspension or withholding of recreational licenses (hunting and fishing) as well as occupational and professional licenses for child support obligors who are in arrears in an amount greater than three times the monthly support obligation. Likewise, the statute allows suspension or withholding of these licenses for failure to comply with a subpoena related to a paternity or child support matter.

If adopted, HB 1308 would limit the reach of the statute to recreational licenses issued by the Director of the Game and Fish Department only. Suspending or withholding recreational licenses for those who fail to comply with court orders regarding child support and paternity makes sense. Suspending professional licenses and occupational licenses does not. In the latter category, the suspension would simply compound the obligor's inability to work and to satisfy obligations imposed by the court.

I would encourage this Committee to consider amending HB1308 to amend N.D.C.C. § 50-09-08.6, which authorizes administrative suspension of professional licenses. It would be illogical to restrict a court's authority to suspend professional licenses, while leaving unchecked administrative authority to do so.

Reinstatement professional licenses may be difficult. Fees for reinstatement, applying to the court for an order authorizing reinstatement, and then meeting the licensing entity's reinstatement requirements oftentimes takes months. For example, I have been retained on multiple occasions to assist drivers who have been unable to effectively reinstate their own driving privileges due to bureaucracy and inefficiency.

Nothing in this bill limits a court's inherent and statutory authority to impose contempt sanctions. If an obligor intentionally refuses to comply with a court order, under N.D.C.C. Ch. 27-10, the court retains exceedingly broad authority to impose punitive and remedial sanctions, which include payment of money, forfeitures, or even imprisonment.

CONCLUSION

Policy in law should be logical and based on sound reasoning. Suspension or withholding of recreational licenses for habitual non-payment of support or failure to comply with a subpoena related to paternity or support makes sense. Taking away professional or occupational licenses does not. It exasperates the problem it is purporting to address. It impairs the obligor's ability to work and care for his or her children. I respectfully ask the Committee to consider amending this bill to also address administrative suspension of professional licenses, and to thereafter recommend "do pass.

Respectfully submitted,

/s/ Mark A. Friese

Mark A. Friese

MAF:hs

cc: Sen. Ronald Sorvaag, *via email only*
Rep. Carrie McLeod, *via email only*
Rep. Scott Wagner, *via email only*



Testimony Supporting House Bill 1308

Mark Jorritsma, Executive Director
North Dakota Family Alliance Legislative Action
February 6, 2023

Good morning Chairman Klemin and members of the House Judiciary Committee. My name is Mark Jorritsma and I am the Executive Director of North Dakota Family Alliance Legislative Action. We are here today to testify in support of House Bill 1308 and ask that you issue a “DO PASS” out of committee.

On the face of it, this bill appears somewhat confusing. It seems to reward individuals who must pay child support by reducing the number of revoked licenses, thereby rewarding them in some sense. However, from a practical standpoint, the reasoning is very different.

Fathers (typically) who pay child support need a means of earning income. For those individuals who have professional licenses, it is their license that enables them to earn sufficient income to pay this amount, in particular, since the amount was in part based upon their income level at the time of the court case. If the state now revokes this license, their income will almost certainly decline, but the support payments will stay the same. In such a case, it may very well be difficult for the father to make child support payments and everybody loses in that situation: the father, mother, and child.

We certainly believe that fathers should support their families and children, this bill would ensure that this can continue in the manner in which it was intended. Further, as a Christian organization, we believe that our society has a special calling to help those who are downtrodden and suffering, especially wives/mothers and children.¹

For the aforementioned reasons, North Dakota Family Alliance Legislative Action requests that you render a “DO PASS” on House Bill 1308. Thank you for the opportunity to testify and I’d be happy to stand for any questions.

¹ Psalm 127: 3-4, Mark 10: 13-16, 1 Timothy 5:8, Psalm 34:18.

HB 1308 – Suspension of Professional Licenses
House Judiciary
February 6, 2023
Rep. Shannon Roers Jones

HB 1308 would prohibit the cancellation of a person's occupational or professional license for non-payment of child support. While the bill also strikes out some language related to hunting or fishing licenses, you'll note that that authority is added back on lines 18-19 on page 1, and on line 6 on page 2. We are not looking to change that authority.

There are strong policy considerations for removing the right for the child support division to automatically suspend a person's professional license for non-payment. The most obvious reason being that a person needs to have income to be able to make payments towards their child support obligations. Additionally, there are the workforce considerations. We know that nationwide we have a shortage of skilled workers in professions that frequently require a license, for example nurses, psychologists, plumbers, doctors, electricians, cosmetologists, funeral directors, law enforcement, or even appraisers. If we make it more difficult for people to work in those professions, not only are we making it more difficult for them to make their child support payments, but we are also reducing the workforce available to fill positions in an already shallow pool of potential employees.

Now I understand that the child support enforcement team would like to keep all available tools in their toolbox to compel non-payors to set up a payment plan. But obligors who are willfully evading any efforts to collect child support are not generally working under a professional license. In many of those instances, obligors are working in a position where they will be paid in cash and not have their support payments withheld.

You will hear that we need to keep this law in place or we will lose our federal TANF funding. The federal requirement for maintaining TANF, is that we have a policy, not that it's the same policy as is currently in law. While it takes more work than the current process, nothing prevents the child support enforcement department from imposing contempt sanctions for obligors who willfully refuse to comply with the court's order under N.D.C.C. Chapter 27-10.

There is one amendment that I need to propose to this bill and that is that we modify Chapter 50-09-08.6 to amend the administrative process, as well as the judicial process. That was an oversight in the original drafting and without that amendment the bill will not achieve its intended purpose.

23.0786.01002
Title.

Prepared by the Legislative Council staff for
Representative Roers Jones
February 7, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1308

Page 1, line 1, replace "section" with "sections"

Page 1, line 1, after "14-08.1-06" insert "and 50-09-08.6"

Page 1, line 2, after "recreational" insert "and motor vehicle"

Page 1, line 2, remove "and"

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five percent of the total arrears owed by the obligor or five hundred dollars, whichever is greater. The state agency may waive or reduce the immediate payment that is due under a payment plan if the obligor's current or most recent monthly support obligation is less than five hundred dollars. The state agency may require that a payment plan under this section include satisfaction of all court-ordered child support obligations of the obligor. The obligor's current or most recent monthly support obligation under section 14-09-09.30 must be considered when determining the duration of a payment plan under this section and the payments due under the agreement. A payment plan under this section is not a modification of any child support obligation of the obligor and does not bar judicial review of a child support order under section 14-09-08.4 or other enforcement actions by the obligee or the state agency.

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Page 2, after line 14, insert:

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Renumber accordingly

23.0786.01002

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1308

Introduced by

Representatives Roers Jones, Bahl, Satrom, VanWinkle, Vetter

Senator Hogue

1 A BILL for an Act to amend and reenact ~~section~~sections 14-08.1-06 and 50-09-08.6 of the North
2 Dakota Century Code, relating to suspension of recreational and motor vehicle licenses for
3 delinquent child support payments; ~~and~~ to provide for retroactive application; and to provide a
4 contingent expiration date.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 14-08.1-06 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **14-08.1-06. Suspension of ~~occupational, professional, or recreational~~ license for**
9 **nonpayment of child support or failure to obey subpoena.**

10 When considering a contempt citation against a child support obligor who is in arrears in
11 child support in an amount greater than three times the monthly child support obligation and the
12 obligor is not current in a court-established plan to repay the unpaid child support arrears, or
13 who has failed, after receiving appropriate notice, to comply with a subpoena relating to a
14 paternity or child support matter, the court shall address and make specific findings on the issue
15 of whether the obligor has or may obtain an ~~occupational, professional, or recreational~~
16 ~~certificate, permit, or license that the court may withhold or suspend. The court may withhold or~~
17 ~~suspend any~~ certificate, permit, or license issued by ~~or on behalf of the state or any of its~~
18 ~~licensing authorities or occupational or professional boards, which the obligor is required to~~
19 ~~obtain prior to engaging in the obligor's occupation or profession~~lottery, by tag, or electronically
20 by the director of the game and fish department. The court may withhold or suspend any
21 certificate, permit, or license issued by lottery ~~or~~ by tag, or electronically by the director of the
22 game and fish department, which the obligor is required to obtain prior to engaging in a
23 recreational activity. Following a decision to withhold or suspend an obligor's certificate, permit,
24 or license for failure to pay child support, the court shall notify the obligor that the decision

1 becomes final thirty days after the notification unless the obligor satisfies or makes
2 arrangements to pay the entire outstanding payment due. Following a decision to withhold or
3 suspend an obligor's certificate, permit, or license for failure to comply with a subpoena relating
4 to a paternity or child support matter, the court shall notify the obligor that the decision becomes
5 final unless the obligor complies with the subpoena within a time set by the court. The court
6 shall notify the ~~appropriate licensing authority, occupational or professional board, or the~~
7 ~~director of the game and fish department~~director of the game and fish department of the court's
8 decision to withhold or suspend an obligor's certificate, permit, or license. A certificate, permit,
9 or license withheld or suspended by an order issued under this section may be reissued only by
10 order of the court. An appeal by an obligor who has had a certificate, permit, or license
11 suspended under this section is an appeal from the court's order and may not be appealed to
12 the ~~licensing authority, occupational or professional board, or the~~ director of the game and fish
13 department.

14 **SECTION 2. AMENDMENT.** Section 50-09-08.6 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **50-09-08.6. Suspension of ~~occupational, professional,~~ recreational, motor vehicle**
17 **operator, and vehicle licenses and registrations for nonpayment of child support or**
18 **failure to obey subpoena.**

19 1. As used in this section:

20 a. "License" means:

21 (1) ~~Any certificate, permit, or license issued by an agency of the state or a~~
22 ~~political subdivision of the state which the obligor is required to obtain prior~~
23 ~~to engaging in the obligor's occupation or profession;~~

24 ~~(2)~~ Any certificate, permit, or license issued by an agency of the state which the
25 obligor is required to obtain prior to engaging in a recreational activity; and

26 ~~(3)~~(2) Any operator's license or vehicle license or registration which the obligor is
27 required to obtain prior to operating or owning a vehicle in this state. As
28 used in this section, "vehicle" includes any motor vehicle as defined in
29 section 39-01-01, aircraft, snowmobile, motorboat, or personal watercraft.

30 b. "Licensee" means a person who has applied for or currently possesses a license.

- 1 c. "Licensing authority" means an agency of the state or a political subdivision of
2 the state that issues a license, including ~~occupational or professional boards,~~ the
3 game and fish department, and the department of transportation.
- 4 d. "Restrict", as it relates to the operator's license of an obligor or a person who fails
5 to comply with a subpoena, includes the authority of the state agency to
6 authorize the issuance, upon request for good cause, of a restricted operator's
7 license that is solely for the use of a motor vehicle during the licensee's normal
8 working hours.
- 9 2. The state agency, directly or through agents and child support agencies, may withhold,
10 restrict, or suspend one or more licenses issued to:
- 11 a. A person who has failed, after receiving proper notice, to comply with a subpoena
12 relating to a paternity or child support matter;
- 13 b. An obligor who is listed on the arrears registry; or
- 14 c. An obligor who is not in compliance with an existing payment plan that has been
15 negotiated between the obligor and the state agency under this section or in
16 exchange for the state agency refraining from taking an enforcement action
17 against the obligor.
- 18 3. Before withholding, restricting, or suspending a license under subdivision a or b of
19 subsection 2, the state agency shall send a notice to the licensee by first-class mail to
20 the licensee's last-known address stating that the licensee has thirty days after the
21 date of the notice to comply with the subpoena, satisfy the arrearage in full, or
22 negotiate a payment plan with the state agency under this section. The notice must
23 further state that the licensee may contest the action of the state agency by making a
24 written request for a court hearing under subsection 5 within ten days of the date of
25 the notice.
- 26 4. Upon notice to the licensee, the state agency may withhold, restrict, or suspend a
27 license under subdivision c of subsection 2 at any time if the licensee fails to comply
28 with a payment plan negotiated under this section. A copy of the state agency's order
29 to withhold, restrict, or suspend a license must be sent to the licensee by first-class
30 mail to the licensee's last-known address. The order must state that the licensee may

1 contest the action of the state agency by making a written request for a court hearing
2 under subsection 5 within ten days of the date of the order.

3 5. A request for a hearing under this section must be made to the court that issued or
4 considered the child support order. If a child support order was issued by a court or
5 administrative tribunal in another jurisdiction, the request may be made to any court of
6 this state which has jurisdiction to enforce that order or, if no court of this state has
7 jurisdiction to enforce that order, in any court of this state with jurisdiction over the
8 licensee.

9 6. In a contest under this section, the court shall affirm the action of the state agency to
10 withhold, restrict, or suspend a license unless the court finds that the state agency's
11 decision was arbitrary, unreasonable, or capricious.

12 7. The state agency shall notify the appropriate licensing authority that the state agency
13 has withheld, restricted, or suspended a license under this section. A license that is
14 withheld, restricted, or suspended by the state agency under this section may be
15 reinstated only by the state agency after the licensee complies with the subpoena,
16 satisfies the arrearage in full, or enters into a payment plan with the state agency
17 under this section.

18 8. An obligor and the state agency may enter into a payment plan under which the
19 obligor agrees to satisfy the obligor's total child support obligation, including arrears,
20 within a period not to exceed ten years. A payment plan under this section must
21 require the obligor to make an immediate payment to the state disbursement unit in an
22 amount equal to five percent of the total arrears owed by the obligor or five hundred
23 dollars, whichever is greater. The state agency may waive or reduce the immediate
24 payment that is due under a payment plan if the obligor's current or most recent
25 monthly support obligation is less than five hundred dollars. The state agency may
26 require that a payment plan under this section include satisfaction of all court-ordered
27 child support obligations of the obligor. The obligor's current or most recent monthly
28 support obligation under section 14-09-09.30 must be considered when determining
29 the duration of a payment plan under this section and the payments due under the
30 agreement. A payment plan under this section is not a modification of any child
31 support obligation of the obligor and does not bar judicial review of a child support

- 1 order under section 14-09-08.4 or other enforcement actions by the obligee or the
2 state agency.
- 3 9. An action of the state agency to withhold, restrict, or suspend a license under this
4 section may not be appealed to the state agency or to the licensing authority, including
5 an appeal under chapter 28-32. Section 50-09-14 does not apply to actions taken by
6 the state agency under this section.
- 7 10. Except for statistical purposes, an entry on the driving record or abstract of a
8 restriction or suspension under this section after the restriction or suspension ceases
9 may not be available to the public other than by order of a court of competent
10 jurisdiction.
- 11 11. A licensing authority and any person acting on its behalf is not liable for any actions
12 taken to withhold, restrict, or suspend a license under this section. This section does
13 not limit the ability of a licensing authority to withhold, restrict, or suspend a license on
14 any other grounds authorized by law.

15 **SECTION 3. RETROACTIVE APPLICATION.** This Act applies retroactively to child support
16 arrears accrued before the effective date of this Act.

17 **SECTION 4. CONTINGENT EXPIRATION DATE.** Section 2 of this Act is effective until the
18 date the executive director of the department of health and human services notifies legislative
19 council that the enactment of section 1 of this Act causes the state to be out of compliance with
20 42 U.S.C. 666(a)(16), and after that date is ineffective.