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SENATE BILL NO. 1108

Offered January 14, 2015

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A BILL to amend and reenact §§ 18.2-308.013, 20-60.3, 63.2-1916, and 63.2-1937 of the Code of Virginia, relating to revocation of concealed handgun permit; delinquency in child support payments.

Patrons—Puller; Delegate: Simon

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-308.013, 20-60.3, 63.2-1916, and 63.2-1937 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-308.013. Suspension or revocation of permit.

A. Any person convicted of an offense that would disqualify that person from obtaining a permit under § 18.2-308.09 or who violates subsection C of § 18.2-308.02 shall forfeit his permit for a concealed handgun and surrender it to the court. Upon receipt by the Central Criminal Records Exchange of a record of the arrest, conviction, or occurrence of any other event that would disqualify a person from obtaining a concealed handgun permit under § 18.2-308.09, the Central Criminal Records Exchange shall notify the court having issued the permit of such disqualifying arrest, conviction, or other event. Upon receipt of such notice of a conviction, the court shall revoke the permit of a person disqualified pursuant to this subsection, and shall promptly notify the State Police and the person whose permit was revoked of the revocation.

B. An individual who has a felony charge pending or a charge pending for an offense listed in subdivision 14 or 15 of § 18.2-308.09, holding a permit for a concealed handgun, may have the permit suspended by the court before which such charge is pending or by the court that issued the permit.

C. The court shall revoke the permit of any individual for whom it would be unlawful to purchase, possess, or transport a firearm under § 18.2-308.1:2 or 18.2-308.1:3, and shall promptly notify the State Police and the person whose permit was revoked of the revocation.

D. The court shall revoke the permit of an individual who (i) has failed to comply with a subpoena, summons, or warrant relating to paternity or child support proceedings or (ii) is delinquent in the payment of child support by a period of 90 days or more or in an amount of \$5,000 or more, in accordance with subsection C of § 63.2-1937.

§ 20-60.3. Contents of support orders.

All orders directing the payment of spousal support where there are minor children whom the parties have a mutual duty to support and all orders directing the payment of child support, including those orders confirming separation agreements, entered on or after October 1, 1985, whether they are original orders or modifications of existing orders, shall contain the following:

1. Notice that support payments may be withheld as they become due pursuant to § 20-79.1 or § 20-79.2, from income as defined in § 63.2-1900, without further amendments of this order or having to file an application for services with the Department of Social Services; however, absence of such notice in an order entered prior to July 1, 1988, shall not bar withholding of support payments pursuant to § 20-79.1;

2. Notice that support payments may be withheld pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 without further amendments to the order upon application for services with the Department of Social Services; however, absence of such notice in an order entered prior to July 1, 1988, shall not bar withholding of support payments pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2;

3. The name, date of birth, and last four digits of the social security number of each child to whom a duty of support is then owed by the parent;

4. If known, the name, date of birth, and last four digits of the social security number of each parent of the child and, unless otherwise ordered, each parent's residential and, if different, mailing address, residential and employer telephone number, driver's license number, and the name and address of his or her employer; however, when a protective order has been issued or the court otherwise finds reason to believe that a party is at risk of physical or emotional harm from the other party, information other than the name of the party at risk shall not be included in the order;

5. Notice that, pursuant to § 20-124.2, support will continue to be paid for any child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the party seeking or receiving child support until such child reaches the age of 19 or graduates from high school, whichever occurs first, and that the court may also order the continuation of support for any

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59 child over the age of 18 who is (a) severely and permanently mentally or physically disabled, (b) unable
60 to live independently and support himself, and (c) residing in the home of the parent seeking or
61 receiving child support;

62 6. ~~On and after July 1, 1994, notice~~Notice that a petition may be filed for (i) suspension of any
63 license, certificate, registration or other authorization to engage in a profession, trade, business,
64 occupation, or recreational activity or (ii) *revocation of a concealed handgun permit* issued by the
65 Commonwealth to a parent as provided in § 63.2-1937 upon a delinquency for a period of 90 days or
66 more or in an amount of \$5,000 or more. The order shall indicate whether either or both parents
67 currently hold such an authorization or permit and, if ~~so either or both holds an authorization~~, the type
68 of authorization held;

69 7. The monthly amount of support and the effective date of the order. In proceedings on initial
70 petitions, the effective date shall be the date of filing of the petition; in modification proceedings, the
71 effective date may be the date of notice to the responding party. The first monthly payment shall be due
72 on the first day of the month following the hearing date and on the first day of each month thereafter.
73 In addition, an amount shall be assessed for any full and partial months between the effective date of
74 the order and the date that the first monthly payment is due. The assessment for the initial partial month
75 shall be prorated from the effective date through the end of that month, based on the current monthly
76 obligation;

77 8. a. An order for health care coverage, including the health insurance policy information, for
78 dependent children pursuant to §§ 20-108.1 and 20-108.2 if available at reasonable cost as defined in
79 § 63.2-1900, or a written statement that health care coverage is not available at a reasonable cost as
80 defined in such section, and a statement as to whether there is an order for health care coverage for a
81 spouse or former spouse; and

82 b. A statement as to whether cash medical support, as defined in § 63.2-1900, is to be paid by or
83 reimbursed to a party pursuant to subsections D and G of § 20-108.2, and if such expenses are ordered,
84 then the provisions governing how such payment is to be made;

85 9. If support arrearages exist, (i) to whom an arrearage is owed and the amount of the arrearage, (ii)
86 the period of time for which such arrearage is calculated, and (iii) a direction that all payments are to be
87 credited to current support obligations first, with any payment in excess of the current obligation applied
88 to arrearages;

89 10. If child support payments are ordered to be paid through the Department of Social Services or
90 directly to the obligee, and unless the court for good cause shown orders otherwise, the parties shall
91 give each other and the court and, when payments are to be made through the Department, the
92 Department of Social Services at least 30 days' written notice, in advance, of any change of address and
93 any change of telephone number within 30 days after the change;

94 11. If child support payments are ordered to be paid through the Department of Social Services, a
95 provision requiring an obligor to keep the Department of Social Services informed of the name, address
96 and telephone number of his current employer, or if payments are ordered to be paid directly to the
97 obligee, a provision requiring an obligor to keep the court informed of the name, address and telephone
98 number of his current employer;

99 12. If child support payments are ordered to be paid through the Department of Social Services, a
100 provision requiring the party obligated to provide health care coverage to keep the Department of Social
101 Services informed of any changes in the availability of the health care coverage for the minor child or
102 children, or if payments are ordered to be paid directly to the obligee, a provision requiring the party
103 obligated to provide health care coverage to keep the other party informed of any changes in the
104 availability of the health care coverage for the minor child or children;

105 13. The separate amounts due to each person under the order, unless the court specifically orders a
106 unitary award of child and spousal support due or the order affirms a separation agreement containing
107 provision for such unitary award;

108 14. Notice that in determination of a support obligation, the support obligation as it becomes due and
109 unpaid creates a judgment by operation of law. The order shall also provide, pursuant to § 20-78.2, for
110 interest on the arrearage at the judgment rate as established by § 6.2-302 unless the obligee, in a writing
111 submitted to the court, waives the collection of interest;

112 15. Notice that on and after July 1, 1994, the Department of Social Services may, pursuant to
113 Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 and in accordance with §§ 20-108.2 and 63.2-1921,
114 initiate a review of the amount of support ordered by any court;

115 16. A statement that if any arrearages for child support, including interest or fees, exist at the time
116 the youngest child included in the order emancipates, payments shall continue in the total amount due
117 (current support plus amount applied toward arrearages) at the time of emancipation until all arrearages
118 are paid; and

119 17. Notice that, in cases enforced by the Department of Social Services, the Department of Motor
120 Vehicles may suspend or refuse to renew the driver's license of any person upon receipt of notice from

the Department of Social Services that the person (i) is delinquent in the payment of child support by 90 days or in an amount of \$5,000 or more or (ii) has failed to comply with a subpoena, summons, or warrant relating to paternity or child support proceedings.

The provisions of this section shall not apply to divorce decrees where there are no minor children whom the parties have a mutual duty to support.

§ 63.2-1916. Notice of administrative support order; contents; hearing; modification.

The Commissioner may proceed against a noncustodial parent whose support debt has accrued or is accruing based upon subrogation to, assignment of, or authorization to enforce a support obligation. Such obligation may be created by a court order for support of a child or child and spouse or decree of divorce ordering support of a child or child and spouse. In the absence of such a court order or decree of divorce, the Commissioner may, pursuant to this chapter, proceed against a person whose support debt has accrued or is accruing based upon payment of public assistance or who has a responsibility for the support of any dependent child or children and their custodial parent. The administrative support order shall also provide that support shall continue to be paid for any child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the parent seeking or receiving child support, until such child reaches the age of 19 or graduates from high school, whichever comes first. The Commissioner shall initiate proceedings by issuing notice containing the administrative support order which shall become effective unless timely contested. The notice shall be served upon the debtor (a) in accordance with the provisions of §§ 8.01-296, 8.01-327 or § 8.01-329 or (b) by certified mail, return receipt requested, or the debtor may accept service by signing a formal waiver. A copy of the notice shall be sent to the obligee by first-class mail. The notice shall include the following:

1. A statement of the support debt or obligation accrued or accruing and the basis and authority under which the assessment of the debt or obligation was made. The initial administrative support order shall be effective on the date of service and the first monthly payment shall be due on the first of the month following the date of service and the first of each month thereafter. A modified administrative support order shall be effective the date that notice of the review is served on the nonrequesting party, and the first monthly payment shall be due on the first day of the month following the date of such service and on the first day of each month thereafter. In addition, an amount shall be assessed for the partial month between the effective date of the order and the date that the first monthly payment is due. The assessment for the initial partial month shall be prorated from the effective date through the end of that month, based on the current monthly obligation. All payments are to be credited to current support obligations first, with any payment in excess of the current obligation applied to arrearages, if any;

2. A statement of the name, date of birth, and last four digits of the social security number of the child or children for whom support is being sought;

3. A statement that support shall continue to be paid for any child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the party seeking or receiving child support, until such child reaches the age of 19 or graduates from high school, whichever comes first;

4. A demand for immediate payment of the support debt or obligation or, in the alternative, a demand that the debtor file an answer with the Commissioner within 10 days of the date of service of the notice stating his defenses to liability;

5. If known, the full name, date of birth, and last four digits of the social security number of each parent of the child; however, when a protective order has been issued or the Department otherwise finds reason to believe that a party is at risk of physical or emotional harm from the other party, only the name of the party at risk shall be included in the order;

6. A statement that if no answer is made on or before 10 days from the date of service of the notice, the administrative support order shall be final and enforceable, and the support debt shall be assessed and determined subject to computation, and is subject to collection action;

7. A statement that the debtor may be subject to mandatory withholding of income, the interception of state or federal tax refunds, interception of payments due to the debtor from the Commonwealth, notification of arrearage information to consumer reporting agencies, passport denial or suspension, or incarceration and that the debtor's property will be subject to lien and foreclosure, distraint, seizure and sale, an order to withhold and deliver, or withholding of income;

8. A statement that the parents shall keep the Department informed regarding access to health insurance coverage and health insurance policy information and a statement that health care coverage shall be required for the parents' dependent children if available at reasonable cost as defined in § 63.2-1900, or pursuant to subsection A of § 63.2-1903. If a child is enrolled in Department-sponsored health care coverage, the Department shall collect the cost of the coverage pursuant to subsection E of § 20-108.2;

9. A statement of each party's right to appeal and the procedures applicable to appeals from the

182 decision of the Commissioner;

183 10. A statement that the obligor's income shall be immediately withheld to comply with this order
184 unless the obligee, or the Department, if the obligee is receiving public assistance, and obligor agree to
185 an alternative arrangement;

186 11. A statement that any determination of a support obligation under this section creates a judgment
187 by operation of law and as such is entitled to full faith and credit in any other state or jurisdiction;

188 12. A statement that each party shall give the Department written notice of any change in his address
189 or phone number within 30 days;

190 13. A statement that each party shall keep the Department informed of the name, telephone number
191 and address of his current employer;

192 14. A statement that if any arrearages for child support, including interest or fees, exist at the time
193 the youngest child included in the order emancipates, payments shall continue in the total amount due
194 (current support plus amount applied toward arrearages) at the time of emancipation until all arrearages
195 are paid;

196 15. A statement that a petition may be filed for (i) suspension of any license, certificate, registration,
197 or other authorization to engage in a profession, trade, business, occupation, or recreational activity *or*
198 (ii) *revocation of a concealed handgun permit* issued by the Commonwealth to a parent as provided in
199 § 63.2-1937 upon a delinquency for a period of 90 days or more or in amount of \$5,000 or more. The
200 order shall indicate whether either or both parents currently hold such an authorization *or permit* and, if
201 ~~so either or both holds an authorization~~, the type of authorization held;

202 16. A statement that the Department of Motor Vehicles may suspend or refuse to renew the driver's
203 license of any person upon receipt of notice from the Department of Social Services that the person (i)
204 is delinquent in the payment of child support by 90 days or in an amount of \$5,000 or more or (ii) has
205 failed to comply with a subpoena, summons, or warrant relating to paternity or child support
206 proceedings; and

207 17. A statement that on and after July 1, 1994, the Department of Social Services, as provided in
208 § 63.2-1921 and in accordance with § 20-108.2, may initiate a review of the amount of support ordered
209 by any court.

210 If no answer is received by the Commissioner within 10 days of the date of service or acceptance,
211 the administrative support order shall be effective as provided in the notice. The Commissioner may
212 initiate collection procedures pursuant to this chapter, Chapter 11 (§ 16.1-226 et seq.) of Title 16.1 or
213 Title 20. The debtor and the obligee have 10 days from the date of receipt of the notice to file an
214 answer with the Commissioner to exercise the right to an administrative hearing.

215 Any changes in the amount of the administrative order must be made pursuant to this section. In no
216 event shall an administrative hearing alter or amend the amount or terms of any court order for support
217 or decree of divorce ordering support. No support order may be retroactively modified, but may be
218 modified with respect to any period during which there is a pending petition for modification in any
219 court, but only from the date that notice of the review has been served on the nonrequesting party.
220 Notice of the review shall be served for each review (1) in accordance with the provisions of §
221 8.01-296, 8.01-327 or 8.01-329, or (2) by certified mail, with proof of actual receipt by the addressee, or
222 (3) by the nonrequesting party executing a waiver. The existence of an administrative order shall not
223 preclude either an obligor or obligee from commencing appropriate proceedings in a juvenile and
224 domestic relations district court or a circuit court.

225 **§ 63.2-1937. Applications for occupational or other license or concealed handgun permit to**
226 **include social security number; suspension upon delinquency; procedure.**

227 A. Every initial application for or application for renewal of a license, certificate, registration, or
228 other authorization to engage in a business, trade, profession, ~~or~~ occupation, *or recreational activity*
229 issued by the Commonwealth pursuant to ~~Titles~~ Title 22.1, 38.2, 46.2, or 54.1 or any other provision of
230 law *or a concealed handgun permit issued pursuant to Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7*
231 *of Title 18.2* shall require that the applicant provide his social security number or a ~~control~~ driver's
232 license or Department of Motor Vehicles-issued identification card number issued by the Department of
233 Motor Vehicles pursuant to § 46.2-342.

234 B. Upon ~~thirty~~ 30 days' notice to an obligor who (i) has failed to comply with a subpoena, summons,
235 or warrant relating to paternity or child support proceedings or (ii) is alleged to be delinquent in the
236 payment of child support by a period of ~~ninety~~ 90 days or more or for \$5,000 or more, an obligee, or
237 the Department on behalf of an obligee, may petition either the court that entered or the court that is
238 enforcing the order for child support for an order suspending any license, certificate, registration, or
239 other authorization to engage in a business, trade, profession or occupation, or recreational activity
240 issued to the obligor by the Commonwealth pursuant to ~~Titles~~ Title 22.1, 29.1, 38.2, 46.2, or 54.1 or
241 any other provision of law. The notice shall be sent by certified mail, with proof of actual receipt. The
242 notice shall specify that (a) the obligor has ~~thirty~~ 30 days from the date of receipt to comply with the
243 subpoena, summons, or warrant or pay the delinquency or to reach an agreement with the obligee or the

Department to pay the delinquency and (b) if compliance is not forthcoming or payment is not made or an agreement cannot be reached within that time, a petition will be filed seeking suspension of any license, certificate, registration, or other authorization to engage in a business, trade, profession or occupation, or recreational license issued by the Commonwealth to the obligor.

The court shall not suspend a license, certificate, registration or authorization upon finding that an alternate remedy is available to the obligee or the Department that is likely to result in collection of the delinquency. Further, the court may refuse to order the suspension upon finding that (1) suspension would result in irreparable harm to the obligor or employees of the obligor or would not result in collection of the delinquency or (2) the obligor has made a demonstrated, good faith effort to reach an agreement with the obligee or the Department.

If the court finds that the obligor is delinquent in the payment of child support by ~~ninety~~ 90 days or more or in an amount of \$5,000 or more and holds a license, certificate, registration, or other authority to engage in a business, trade, profession or occupation, or recreational activity issued by the Commonwealth, it shall order suspension. The order shall require the obligor to surrender any license, certificate, registration, or other such authorization to the issuing entity within ~~ninety~~ 90 days of the date on which the order is entered. If at any time after entry of the order the obligor (A) (1) pays the delinquency or (B), (2) reaches an agreement with the obligee or the Department to satisfy the delinquency within a period not to exceed ~~ten~~ 10 years and makes at least one payment, representing at least five percent of the total delinquency or \$500, whichever is greater, pursuant to the agreement, or (C) (3) complies with the subpoena, summons, or warrant or reaches an agreement with the Department with respect to the subpoena, summons, or warrant, upon proof of payment or certification of the compliance or agreement, the court shall order reinstatement. Payment shall be proved by certified copy of the payment record issued by the Department or notarized statement of payment signed by the obligee. No fee shall be charged to a person who obtains reinstatement of a license, certificate, registration, or authorization pursuant to this section.

C. Upon 30 days' notice to an obligor who (i) has failed to comply with a subpoena, summons, or warrant relating to paternity or child support proceedings or (ii) is alleged to be delinquent in the payment of child support by a period of 90 days or more or in an amount of \$5,000 or more, the Department on behalf of an obligee may petition the court that issued the concealed handgun permit to the obligor for an order revoking such permit. The notice shall be sent by certified mail, with proof of actual receipt. The notice shall specify that (a) the obligor has 30 days from the date of receipt to comply with the subpoena, summons, or warrant or pay the delinquency or to reach an agreement with the obligee or the Department to pay the delinquency and (b) if compliance is not forthcoming or payment is not made or an agreement cannot be reached within that time, a petition will be filed seeking revocation of the concealed handgun permit issued by the Commonwealth to the obligor.

If the court finds that the obligor holds a concealed handgun permit and either has failed to comply with a subpoena, summons, or warrant relating to paternity or child support proceedings or is delinquent in the payment of child support by a period of 90 days or more or in an amount of \$5,000 or more, it shall revoke the permit of such obligor and shall promptly notify the Department of State Police and the person whose permit was revoked of the revocation. The order shall require the obligor to surrender the permit to the issuing court within 30 days of the date on which the order is entered. If at any time after entry of the order the obligor (1) pays the delinquency, (2) reaches an agreement with the obligee or the Department to satisfy the delinquency within a period not to exceed 10 years and makes at least one payment, representing at least five percent of the total delinquency or \$500, whichever is greater, pursuant to the agreement, or (3) complies with the subpoena, summons, or warrant or reaches an agreement with the Department with respect to the subpoena, summons, or warrant, upon proof of payment or certification of the compliance or agreement, the obligor may reapply for a concealed handgun permit through the procedures provided in Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7 of Title 18.2.

D. The court shall not suspend a license, certificate, registration, or other such authorization or revoke a concealed handgun permit upon finding that an alternate remedy is available to the obligee or the Department that is likely to result in collection of the delinquency. Further, the court may refuse to order the suspension of such authorization or revocation of such permit upon finding that (i) suspension or revocation would result in irreparable harm to the obligor or employees of the obligor or would not result in collection of the delinquency or (ii) the obligor has made a demonstrated good faith effort to reach an agreement with the obligee or the Department.