

LD9635450

HOUSE BILL NO. 1675

Offered January 17, 1995

A BILL to amend and reenact § 20-60.3 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-395.1, relating to suspension of drivers license for failure to pay child support .

Patrons—Shuler, Abbitt, Armstrong, Behm, Darner, Davies, Deeds, Grayson, Parrish, Plum, Puller and Reynolds

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 20-60.3 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-395.1 as follows:

§ 20-60.3. Contents of support orders.

All orders directing the payment of child or spousal 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 earnings as defined in § 63.1-250, 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 13 (§ 63.1-249 et seq.) of Title 63.1 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 13 of Title 63.1;

3. The names and dates of birth of each child to whom a duty of support is then owed by the person responsible for support;

4. If known, the name, date of birth and social security number of each parent of the child and, if different and if known, the name, date of birth and social security number of the person responsible for support and, unless otherwise ordered, the current address and place of employment of each such parent or responsible person;

5. On and after July 1, 1994, notice that a petition may be filed for suspension of any license, certificate, registration or other authorization to engage in a profession, trade, business or occupation issued by the Commonwealth to a person responsible for support as provided in § 63.1-263.1 upon a delinquency for a period of ninety days or more or in an amount of \$5,000 or more. The order shall indicate whether either or both parents currently hold such an authorization and, if so, the type of authorization held;

5a. On and after July 1, 1995, notice that a petition may be filed for suspension of any license to operate a motor vehicle issued by the Commonwealth to a person responsible for support as provided in § 46.2-395.1 upon a delinquency for a period of at least ninety days;

6. The amount of periodic support expressed in fixed sums, together with the payment interval, the date payments are due, and the date the first payment is due;

7. An order for health care coverage, including the health insurance policy information, for dependent children pursuant to §§ 20-108.1 and 20-108.2 if available at reasonable cost as defined in § 63.1-250 and a statement as to whether there is an order for health care coverage for a spouse or former spouse;

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

9. If child support payments are ordered to be paid through the Department of Social Services, and unless the court for good cause shown orders otherwise, the parties shall give each other and the Department of Social Services at least thirty days' written notice, in advance, of any change of address;

10. If child support payments are ordered to be paid through the Department of Social Services, a provision requiring a delinquent obligor to keep the Department of Social Services informed of the name and address of his current employer;

11. The separate amounts due to each person under the order, unless the court specifically orders a unitary award of child and spousal support due or the order affirms a separation agreement containing

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60 provision for such unitary award;

61 12. Notice that in determination of a support obligation, the support obligation as it becomes due and
62 unpaid creates a judgment by operation of law; and

63 13. Notice that on and after July 1, 1994, the Department of Social Services may, pursuant to
64 Chapter 13 of Title 63.1 and in accordance with § 20-108.2 and § 63.1-252.2, initiate a review of the
65 amount of support ordered by any court.

66 § 46.2-395.1. *Suspension of operator's license upon delinquency in payment of child support;*
67 *procedure.*

68 *Upon thirty days' notice to an obligor who is alleged to be delinquent in the payment of child*
69 *support by a period of at least ninety days, an obligee or the Department of Social Services on behalf of*
70 *an obligee may petition either the court that entered or the court that is enforcing the order for child*
71 *support for an order suspending any license to operate a motor vehicle issued to the obligor by the*
72 *Commonwealth. The notice shall be sent by certified mail, with proof of actual receipt. The notice shall*
73 *specify that (i) the obligor has thirty days from the date of receipt to pay the delinquency or to reach an*
74 *agreement with the obligee or the Department to pay the delinquency and (ii) if payment is not made or*
75 *an agreement cannot be reached within that time, a petition will be filed seeking suspension of any*
76 *license to operate a motor vehicle issued by the Commonwealth to the obligor.*

77 *If the court finds that the obligor (i) is delinquent in the payment of child support by at least ninety*
78 *days and (ii) holds a license to operate a motor vehicle issued by the Commonwealth, it may order*
79 *suspension, effective immediately. The order shall require the obligor to surrender any license to the*
80 *court within thirty days of the date on which the order is entered. The court may, in its discretion and*
81 *for good cause shown, provide that the obligor be issued a restricted permit to operate a motor vehicle*
82 *for any or all of the following purposes: (i) travel to and from his place of employment; (ii) travel*
83 *during the hours of such person's employment if the operation of a motor vehicle is a necessary incident*
84 *of such employment; (iii) travel to and from school if such person is a student, upon proper written*
85 *verification to the court that the person is enrolled in a continuing program of education; or (iv) other*
86 *medically necessary travel as the court deems necessary and proper upon written verification of need by*
87 *a licensed health professional. The court shall order reinstatement, if at any time after entry of the*
88 *order the obligor (i) pays the delinquency or (ii) reaches an agreement with the obligee or the*
89 *Department and makes at least one payment pursuant to the agreement. Payment shall be proved by*
90 *certified copy of the payment record issued by the Department or notarized statement of payment signed*
91 *by the obligee. No fee shall be charged to a person who obtains reinstatement of a license pursuant to*
92 *this section.*

93 *However, upon finding that an alternate remedy is available to the obligee or the Department which*
94 *is likely to result in collection of the delinquency, the court shall not suspend a license. Further, the*
95 *court may refuse to order the suspension upon finding that (i) suspension would result in irreparable*
96 *harm to the obligor or employees of the obligor or would not result in collection of the delinquency or*
97 *(ii) the obligor has made a demonstrated, good faith effort to reach an agreement with the obligee or*
98 *the Department.*