

LD4111687

## SENATE BILL NO. 288

Offered January 25, 1994

A Bill to amend and reenact §§ 20-78.2 and 63.1-267 of the Code of Virginia, relating to interest on support arrearages.

Patrons—Howell and Gartlan; Delegates: Albo, Almand, Callahan, Connally, Darner, Fisher, Keating, Plum, Puller, Scott and Van Landingham

Referred to the Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:****1. That §§ 20-78.2 and 63.1-267 of the Code of Virginia are amended and reenacted as follows:****§ 20-78.2. Interest on support arrearage.**

The entry of an order or decree of support for a spouse or for support and maintenance of a child under the provisions of this chapter or §§ 20-107.1 through 20-109 shall constitute a final judgment for any sum or sums in arrears. This order shall also include an amount for interest on the arrearage at the judgment interest rate if the person to whom such arrearage is payable requests that interest be charged. However, the burden shall be on the person to whom such arrearage is payable, upon instruction of the court, to compute all interest due at the judgment interest rate as established by § 6.1-330.54 and furnish this information to the court.

Interest shall accrue at the close of the last day of each calendar quarter and shall be calculated by multiplying the total arrearage existing at the end of the day by the applicable rate of interest. This method of computation shall apply to all support orders, regardless of the frequency of the installments required by the order. If the order does not specify the date on which payments are to begin, it shall be assumed that the first installment was due on the date the order was entered, and subsequent installments fall due on the same day of the week, or date of the month, as is appropriate. Payments due on the twenty-ninth, thirtieth, or thirty-first of any month shall be deemed due on the last day of any month not containing such date. The interest imposed under this section shall automatically accrue and attach to the underlying support judgment, and may be collected together with the arrearage. No payment or collection shall be applied to reduce the interest balance until the entire support arrearage has been satisfied. Interest shall be considered support for purposes of exemptions, restrictions on amounts that may be withheld by garnishment, and nondischargeability in bankruptcy.

**§ 63.1-267. Interest on debts due.**

Interest of six per centum per annum at the judgment interest rate as established by § 6.1-330.54 on any support debt due and owing to the Department under ~~§ 63.1-251~~ may order being enforced by the Department pursuant to this chapter shall be collected by the Commissioner. ~~No provision of this chapter shall be construed to require the~~ The Commissioner ~~to~~ shall maintain interest balance due accounts and such interest may be waived by the Commissioner, if such waiver would facilitate the collection of the debt. Interest shall accrue at the close of the last day of each calendar quarter and shall be calculated by multiplying the total arrearage existing at the end of the day by the applicable rate of interest. This method of computation shall apply to all support orders, regardless of the frequency of the installments required by the order. If the order does not specify the date on which payments are to begin, it shall be assumed that the first installment was due on the date the order was entered, and subsequent installments fall due on the same day of the week, or date of the month, as is appropriate. Payments due on the twenty-ninth, thirtieth, or thirty-first of any month shall be deemed due on the last day of any month not containing such date. The interest imposed under this section shall automatically accrue and attach to the underlying support judgment, and may be collected together with the arrearage. No payment or collection shall be applied to reduce the interest balance until the entire support arrearage has been satisfied. Interest shall be considered support for purposes of exemptions, restrictions on amounts that may be withheld by garnishment, and nondischargeability in bankruptcy.

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