

VIRGINIA ACTS OF ASSEMBLY -- 1997 RECONVENED SESSION

CHAPTER 895

An Act to amend and reenact §§ 19.2-389, 20-60.3, 20-87.1, 63.1-250, 63.1-250.1, 63.1-252.1 as it is currently effective and as it may become effective, §§ 63.1-274.6, 65.2-531 and 65.2-903 of the Code of Virginia, to amend the Code of Virginia by adding in Chapter 4.1 of Title 20 a section numbered 20-60.6, and by adding sections numbered 63.1-250.2:1 and 63.1-260.3, relating to child support enforcement; access to obligor information; monetary penalty.

[H 2676]

Approved April 2, 1997

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-389, 20-60.3, 20-87.1, 63.1-250, 63.1-250.1, 63.1-252.1 as it is currently effective and as it may become effective, §§ 63.1-274.6, 65.2-531 and 65.2-903 of the Code of Virginia are amended and reenacted, that the Code of Virginia is amended by adding in Chapter 4.1 of Title 20 a section numbered 20-60.6, and by adding sections numbered 63.1-250.2:1 and 63.1-260.3 as follows:

§ 19.2-389. Dissemination of criminal history record information.

A. Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § 9-169, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every thirty days;

2. Such other individuals and agencies which require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements and/or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;

4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency which shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

5. Agencies of state or federal government which are authorized by state or federal statute or executive order of the President of the United States or Governor to conduct investigations determining employment suitability or eligibility for security clearances allowing access to classified information;

6. Individuals and agencies where authorized by court order or court rule;

7. Agencies of any political subdivision of the Commonwealth for the conduct of investigations of applicants for public employment, permit, or license whenever, in the interest of public welfare or safety, it is necessary to determine under a duly enacted ordinance if the past criminal conduct of a person with a conviction record would be compatible with the nature of the employment, permit, or license under consideration;

8. Public or private agencies when and as required by federal or state law or interstate compact to investigate applicants for foster or adoptive parenthood subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

9. To the extent permitted by federal law or regulation, public service companies as defined in § 56-1, for the conduct of investigations of applicants for employment when such employment involves personal contact with the public or when past criminal conduct of an applicant would be incompatible with the nature of the employment under consideration;

10. The appropriate authority for purposes of granting citizenship and for purposes of international travel, including but not limited to, issuing visas and passports;

11. A person requesting a copy of his own criminal history record information as defined in § 9-169

at his cost, except that criminal history record information shall be supplied at no charge to a person who has applied to be a volunteer (i) with a Virginia affiliate of Big Brothers/Big Sisters of America, (ii) with a volunteer fire company or volunteer rescue squad, (iii) as a court-appointed special advocate, or (iv) with the Volunteer Emergency Families for Children;

12. Administrators and board presidents of and applicants for licensure or registration as a child welfare agency as defined in § 63.1-195 for dissemination to the Commissioner of Social Services' representative pursuant to § 63.1-198 for the conduct of investigations with respect to employees of and volunteers at such facilities, caretakers, and other adults living in family day-care homes or homes approved by family day-care systems, and foster and adoptive parent applicants of private child-placing agencies, pursuant to § 63.1-198.1, subject to the restriction that the data shall not be further disseminated by the facility or agency to any party other than the data subject, the Commissioner of Social Services' representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination;

13. The school boards of the Commonwealth for the purpose of screening individuals who are offered or who accept public school employment;

14. The State Lottery Department for the conduct of investigations as set forth in the State Lottery Law (§ 58.1-4000 et seq.);

15. Licensed nursing homes, hospitals and home care organizations for the conduct of investigations of applicants for compensated employment in licensed nursing homes pursuant to § 32.1-126.01, hospital pharmacies pursuant to § 32.1-126.02, and home care organizations pursuant to § 32.1-162.9:1, subject to the limitations set out in subsection E;

16. Licensed homes for adults, licensed district homes for adults, and licensed adult day-care centers for the conduct of investigations of applicants for compensated employment in licensed homes for adults pursuant to § 63.1-173.2, in licensed district homes for adults pursuant to § 63.1-189.1, and in licensed adult day-care centers pursuant to § 63.1-194.13, subject to the limitations set out in subsection F;

17. The Alcoholic Beverage Control Board for the conduct of investigations as set forth in § 4.1-103.1;

18. The State Board of Elections and authorized officers and employees thereof in the course of conducting necessary investigations with respect to registered voters, limited to any record of felony convictions;

19. The Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services for those individuals who are committed to the custody of the Commissioner pursuant to §§ 19.2-169.2, 19.2-169.6, 19.2-176, 19.2-177.1, 19.2-182.2, 19.2-182.3, 19.2-182.8 and 19.2-182.9 for the purpose of placement, evaluation, and treatment planning;

20. Any alcohol safety action program certified by the Commission on the Virginia Alcohol Safety Action Program for (i) assessments of habitual offenders under § 46.2-360, (ii) interventions with first offenders under § 18.2-251, or (iii) services to offenders under § 18.2-266 or § 18.2-266.1;

21. Residential facilities for juveniles regulated or operated by the Department of Social Services, the Department of Education, or the Department of Mental Health, Mental Retardation and Substance Abuse Services for the purpose of determining applicants' fitness for employment or for providing volunteer or contractual services;

22. The Department of Mental Health, Mental Retardation and Substance Abuse Services and facilities operated by the Department for the purpose of determining an individual's fitness for employment pursuant to departmental instructions;

23. Pursuant to § 22.1-296.3, the governing boards or administrators of private or parochial elementary or secondary schools which are accredited by a statewide accrediting organization recognized, prior to January 1, 1996, by the State Board of Education; ~~and~~

24. The Commissioner of the Department of Social Services for the purpose of locating persons who owe child support or who are alleged in a pending paternity proceeding to be a putative father, provided that only the name, address, demographics and social security number of the data subject shall be released; and

~~24.~~ 25. Other entities as otherwise provided by law.

Upon an ex parte motion of a defendant in a felony case and upon the showing that the records requested may be relevant to such case, the court shall enter an order requiring the Central Criminal Records Exchange to furnish the defendant, as soon as practicable, copies of any records of persons designated in the order on whom a report has been made under the provisions of this chapter.

Notwithstanding any other provision of this chapter to the contrary, upon a written request sworn to before an officer authorized to take acknowledgments, the Central Criminal Records Exchange or the criminal justice agency in cases of offenses not required to be reported to the Exchange, shall furnish a copy of conviction data covering the person named in the request to the person making the request; however, such person on whom the data is being obtained shall consent in writing, under oath, to the making of such request. A person receiving a copy of his own conviction data may utilize or further disseminate that data as he deems appropriate. In the event no conviction data is maintained on the data subject, the person making the request shall be furnished at his cost a certification to that effect.

B. Use of criminal history record information disseminated to noncriminal justice agencies under this section shall be limited to the purposes for which it was given and may not be disseminated further.

C. No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law.

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.1-135.1.

E. Criminal history information provided to licensed nursing homes, hospitals and to home care organizations pursuant to subdivision A 15 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 32.1-126.01, 32.1-126.02 and 32.1-162.9:1.

F. Criminal history information provided to licensed adult care residences, licensed district homes for adults, and licensed adult day-care centers pursuant to subdivision A 16 shall be limited to the convictions on file with the Exchange for any offense specified in §§ 63.1-173.2, 63.1-189.1 or § 63.1-194.13.

§ 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~~ *person'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. 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;

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 *and any change of telephone number within thirty days after the change;*

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 *and telephone number* 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 provision for such unitary award;

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

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

§ 20-60.6. *When delivery of notice to party at last known address sufficient.*

In any subsequent child support enforcement proceeding between the parties, upon sufficient showing that diligent effort was made to ascertain the location of a party, that party may be served with any required notice by delivery of the written notice to that party's residential or business address as filed with the court pursuant to § 20-60.3 or the Department of Social Services, or if changed, as shown in the records of the Department of Social Services. However, any person served with notice as provided in this section may challenge, in a subsequent judicial proceeding, an order entered based upon such service on the grounds that he did not receive the notice and enforcement of the order would constitute manifest injustice.

§ 20-87.1. Department of Social Services may obtain information from other state agencies, public service corporations and companies; disclosure of such information.

To assist in locating parents who have deserted their children and other persons liable for support of dependents and not withstanding the provisions of the Privacy Protection Act (§ 2.1-377 et seq.), the Department of Social Services may request and shall receive information from the records of all departments, boards, bureaus or other agencies *or entities* of this Commonwealth, *including local government agencies*, and customer records of all public service corporations and companies as defined in § 56-1, *financial institutions, and cable televisions companies.*

These ~~departments, boards, bureaus, agencies, corporations, and companies~~ *entities* are authorized to provide such information as is necessary for this purpose. Only information directly bearing on the identity and whereabouts of a person owing or asserted to be owing an obligation of support shall be requested and used or transmitted by the Department of Social Services pursuant to the authority conferred by this section. The Department of Social Services may make such information available only to public officials and agencies of this Commonwealth, other states and the political subdivisions of this Commonwealth and other states seeking to locate parents who have deserted their children and other persons liable for support of dependents for the purpose of enforcing their liability for support.

§ 63.1-250. Definitions.

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

"Administrative order" means a noncourt-ordered legally enforceable support obligation having the force and effect of a support order established by the court.

"Assignment of rights" means the legal procedure whereby an individual assigns support rights to the Commonwealth on behalf of a dependent child or spouse and dependent child.

"Authorization to seek or enforce a support obligation" means a signed authorization to the Commonwealth to seek or enforce support on behalf of a dependent child or a spouse and dependent child or on behalf of a person deemed to have submitted an application by operation of law.

"Caretaker" means a parent, relative, guardian or other person whose needs are included in a public assistance payment under the aid to families with dependent children program.

"Child support services" includes any civil, criminal or administrative action taken by the Division of Child Support Enforcement to establish, modify, enforce, or collect child support, or child and spousal support.

"Commissioner" means the Commissioner of the State Department of Social Services, his designee or authorized representative.

"Court order" means any judgment or order of any court having jurisdiction to order payment of support or an order of a court of comparable jurisdiction of another state ordering payment of a set or determinable amount of support moneys.

"Debt" means the total unpaid support obligation established by court order, administrative process or by the payment of public assistance and owed by a responsible person to either the Commonwealth or to his dependent(s).

"Department" means the State Department of Social Services.

"Dependent child" means any person who meets the eligibility criteria set forth in § 63.1-105, whose support rights have been assigned or whose authorization to seek or enforce a support obligation has been given to the Commonwealth and whose support is required by Titles 16.1 and 20.

"Director" means the Commissioner of the State Department of Social Services, his designee or authorized representative.

"Disposable earnings" means that part of the earnings due and payable of any individual remaining after the deduction from those earnings of any amount required by law to be withheld.

"Earnings" means current or future income due from the responsible person's employer and compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and specifically includes periodic payments currently being made by the responsible person pursuant to pension or retirement programs, unemployment compensation benefits, workers' compensation benefits, debts owed the responsible person and any income or profits due the responsible person from any source, including gambling, lotteries, prizes or any other windfall or other payment of any type, except where excluded by state or federal law.

"Financial institution" means a depository institution, an institution-affiliated party, any federal credit union or state credit union including an institution-affiliated party of such a credit union, and any benefit association, insurance company, safe deposit company, money-market mutual fund, or similar entity authorized to do business in this Commonwealth.

"Financial records" includes, but is not limited to, records held by employers showing earnings, profit sharing contributions and benefits paid or payable and records held by financial institutions, broker-dealers and other institutions and entities showing bank accounts, IRA and separate contributions, gross winnings, dividends, interest, distributive share, stocks, bonds, agricultural subsidies, royalties, prizes and awards held for or due and payable to a responsible person.

"Health care coverage" means any plan providing hospital, medical or surgical care coverage for dependent children provided such coverage is available and can be obtained by a responsible person, as that term is defined in this section, at a reasonable cost.

"Mistake of fact" means an error in the identity of the payor or the amount of current support or arrearage.

"Net income" means that income remaining after the following deductions have been taken from gross income: federal income tax, state income tax, federal income compensation act benefits, any union dues where collection thereof is required under federal law, and any other amounts required by law.

"Payee" means any person to whom spousal or child support is to be paid.

"Reasonable cost" pertaining to health care coverage means available through employers, unions or other groups without regard to service delivery mechanism.

"Responsible person" means any obligor or person obligated under Virginia law for support of a dependent child or the child's caretaker.

§ 63.1-250.1. Authority to issue certain orders.

A. In the absence of a court order, the Department of Social Services shall have the authority to issue orders directing the payment of child, and child and spousal support and, if available at reasonable cost as defined in § 63.1-250, to require a provision for health care coverage for dependent children of the obligor, which shall include the requirements specified for employers pursuant to subdivision A 5 of § 20-79.3. Liability for child support shall be determined retroactively for the period measured from the date the order directing payment is delivered to the sheriff or process server for service upon the obligor.

In ordering the payment of child support, the Department shall set such support at the amount resulting from computation pursuant to the guideline set out in § 20-108.2, subject to the provisions of § 63.1-264.2.

B. When a payee, as defined in § 63.1-250, no longer has physical custody of a child, the Department of Social Services shall have the authority to redirect child support payments to a caretaker, relative or individual who has physical custody of the child when an assignment of rights has been made to the Department or an application for services has been made by such caretaker, relative, or individual with the Division of Child Support Enforcement.

C. The Department of Social Services shall have the authority, upon notice from the Department of Medical Assistance Services, to use any existing enforcement mechanisms provided by this chapter to collect the wages, salary, or other employment income or to withhold amounts from state tax refunds of any obligor who has not used payments received from a third party to reimburse, as appropriate, either the other parent of such child or the provider of such services, to the extent necessary to reimburse the Department of Medical Assistance Services.

D. The Department may order the obligor and payee to notify each other or the Department upon request of current gross income as defined in § 20-108.2 and any other pertinent information which may affect child support amounts. For good cause shown, the Department may order that such information be provided to the Department and made available to the parties for inspection in lieu of the parties' providing such information directly to each other.

E. The Department shall develop procedures governing the method and timing of periodic review and adjustment of child support orders established or enforced or both pursuant to Title IV-D of the Social Security Act. The Department shall, at the request of either parent subject to the order or of a state child support enforcement agency, initiate a review of such order, and initiate appropriate action to adjust such order in accordance with the provisions of § 20-108.2 and subject to the provisions of § 63.1-264.2.

F. *In order to provide essential information for whatever establishment or enforcement actions are*

necessary for the collection of child support, the Commissioner, the Director of the Division of Child Support Enforcement and district managers of Division of Child Support Enforcement offices shall have the right to (i) subpoena financial records of, *or other information relating to*, the responsible person and obligee from any person, firm, corporation, association, or political subdivision or department of the Commonwealth and ~~to~~ (ii) summons the responsible parent and obligee to appear in the Division's offices ~~to provide essential information for whatever establishment or enforcement actions are necessary for the collection of child support~~. The Commissioner, Director and district managers may also subpoena copies of state and federal income tax returns. The district managers shall be trained in the correct use of the subpoena process prior to exercising subpoena authority. *A civil penalty not to exceed \$1,000 may be assessed by the Commissioner for a failure to respond to a subpoena issued pursuant to this subsection.*

G. In the absence of a court order, the Department may establish an administrative support order on an out-of-state obligor if the obligor and the obligee maintained a matrimonial domicile within the Commonwealth. The Department may also take action to enforce an administrative or court order on an out-of-state obligor. Service of such actions shall be in accordance with the provisions of §§ 8.01-296, 8.01-327, or § 8.01-329, or by certified mail, return receipt requested, *in accordance with § 63.1-250.2:1.*

H. If a support order has been issued in another state but the obligor, the obligee, and the child now live in the Commonwealth, the Department may (i) enforce the order without registration, using all enforcement remedies available under Chapter 13 (§ 63.1-249 et seq.) of Title 63.1 and (ii) register the order in the appropriate tribunal of the Commonwealth for enforcement or modification.

§ 63.1-250.2:1. When delivery of notice to party at last known address may be deemed sufficient.

In any subsequent child support enforcement proceeding between the parties, upon sufficient showing that diligent effort was made to ascertain the location of a party, that party may be served with any required notice by delivery of the written notice to that party's residential or business address as filed with the court pursuant to § 20-60.3 or the Department of Social Services, or if changed, as shown in the records of the Department of Social Services. However, any person served with notice as provided in this section may challenge, in a subsequent judicial proceeding, an order entered based upon such service on the grounds that he did not receive the notice and enforcement of the order would constitute manifest injustice.

§ 63.1-252.1. Notice of administrative support order; contents; hearing; modification.

The Commissioner may proceed against a responsible person 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 caretaker. The administrative support order shall also provide that support shall continue to be paid for any child over the age of eighteen 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 nineteen 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 (i) in accordance with the provisions of §§ 8.01-296, 8.01-327 or § 8.01-329 or (ii) by certified mail, return receipt requested, or service may be waived. A copy of the notice shall be sent to the obligee by first-class mail upon service of the notice. 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;
2. A statement of the name of the child or children and caretaker for whom support is being sought;
3. A statement that support shall continue to be paid for any child over the age of eighteen 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 nineteen 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 ten days of the date of service of the notice stating his defenses to liability;
5. A statement of ~~the each party's name and address of the person to whom the answer is to be filed,~~ *residential and, if different, mailing address, telephone number, driver's license number, and the name, address and telephone number of his employer; 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 emotion harm from the other party, information other than the name of the party at risk shall not be included in the notice;*
6. A statement that if no answer is made on or before ten 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 property of the debtor will be subject to lien and foreclosure, distraint, seizure and sale or an order to withhold and deliver or mandatory withholding of earnings;

8. A statement that the obligor shall keep the Department informed regarding access to health insurance coverage and health insurance policy information and a statement that health care coverage may be required for the debtor's dependent children if available at reasonable cost as defined in § 63.1-250;

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

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

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

12. A statement that ~~the obligor~~ *each party* shall give the Department written notice of any change in ~~the obligor's~~ *his* address within thirty days of the change of address *and any change of telephone number within thirty days after the change*; and

13. A statement that ~~the obligor~~ *each party* shall keep the Department informed of the name, *telephone number* and address of ~~the obligor's~~ *his* current employer.

If no answer is received by the Commissioner within ten days of the date of service or acceptance, the administrative support order shall be as provided in the notice. The Commissioner may initiate collection procedures pursuant to this chapter, Chapter 11 (§ 16.1-226 et seq.) of Title 16.1 or Title 20. If the debtor, within ten days of the date of service of the notice, files an answer, with the Commissioner alleging defenses to the liability imposed pursuant to § 63.1-251, the debtor shall have the right to an administrative hearing.

Any changes in the amount of the administrative order must be made pursuant to this section. In no event shall an administrative hearing alter or amend the amount or terms of any court order for support or decree of divorce ordering support. No support order may be retroactively modified, but may be modified with respect to any period during which there is a pending petition for modification, but only from the date that notice pursuant to § 8.01-296 of the review has been given to the nonrequesting party. The existence of an administrative order shall not preclude either an obligor or obligee from commencing appropriate proceedings in a juvenile and domestic relations district court or a circuit court.

§ 63.1-252.1. (Delayed effective date) Notice of administrative support order; contents; hearing; modification.

The Commissioner may proceed against a responsible person 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 caretaker. The administrative support order shall also provide that support shall continue to be paid for any child over the age of eighteen 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 nineteen 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 (i) in accordance with the provisions of §§ 8.01-296, 8.01-327 or § 8.01-329 or (ii) by certified mail, return receipt requested, or service may be waived. A copy of the notice shall be sent to the obligee by first-class mail upon service of the notice. 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;

2. A statement of the name of the child or children and caretaker for whom support is being sought;

3. A statement that support shall continue to be paid for any child over the age of eighteen 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 nineteen 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 ten days of the date of service of the notice stating his defenses to liability;

5. A statement of ~~the~~ *each party's name and, residential and, if different, mailing address of the person to whom the answer is to be filed, telephone number, driver's license number, and the name, address and telephone number of his employer; 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, information other than the name of the party at risk shall not be included in the notice*;

6. A statement that if no answer is made on or before ten 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 property of the debtor will be subject to lien and foreclosure, distraint, seizure and sale or an order to withhold and deliver or mandatory withholding of earnings;

8. A statement that the obligor shall keep the Department informed regarding access to health insurance coverage and health insurance policy information and a statement that health care coverage may be required for the debtor's dependent children if available at reasonable cost as defined in § 63.1-250;

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

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

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

12. A statement that ~~the obligor~~ *each party* shall give the Department written notice of any change in ~~the obligor's~~ *his* address within thirty days of the change of address *and any change of telephone number within thirty days after the change*; and

13. A statement that ~~the obligor~~ *each party* shall keep the Department informed of the name ~~and~~ address *and telephone number* of ~~the obligor's~~ *his* current employer.

If no answer is received by the Commissioner within ten days of the date of service or acceptance, the administrative support order shall be as provided in the notice. The Commissioner may initiate collection procedures pursuant to this chapter, Chapter 11 (§ 16.1-226 et seq.) of Title 16.1 or Title 20. If the debtor, within ten days of the date of service of the notice, files an answer, with the Commissioner alleging defenses to the liability imposed pursuant to § 63.1-251, the debtor shall have the right to an administrative hearing.

Any changes in the amount of the administrative order must be made pursuant to this section. In no event shall an administrative hearing alter or amend the amount or terms of any court order for support or decree of divorce ordering support. No support order may be retroactively modified, but may be modified with respect to any period during which there is a pending petition for modification, but only from the date that notice pursuant to § 8.01-296 of the review has been given to the nonrequesting party. The existence of an administrative order shall not preclude either an obligor or obligee from commencing appropriate proceedings in a family court.

§ 63.1-260.3. Data exchange agreements authorized; immunity.

The Commissioner of the Department is authorized and shall, as feasible, enter into agreements with financial institutions doing business in the Commonwealth to develop and operate, in conjunction with such financial institutions, a data match system using automated data exchanges to the maximum extent feasible. Pursuant to a data match system, a financial institution shall provide on a periodic basis, but no more frequently than every three months, the account title, record address, social security number or other taxpayer identification number, for any person in arrears in the payment of child support who is identified by the Department of Social Services in the request by social security number or other taxpayer identification number.

Any such agreement shall provide for the following:

1. The financial institution shall be obligated to match only those accounts for which a social security number or taxpayer identification number is provided by the Department, and shall have no obligation to match or identify any account based on a person's name or any other identifying information.

2. The financial institution shall provide the account title, record address, social security number or taxpayer identification number for any account matching the social security number and taxpayer identification number provided by the Department. It shall be the Department's responsibility to determine whether such account is an account subject to a lien, or order to withhold and deliver in accordance with the provisions of this chapter.

3. The financial institution shall be given a reasonable time in which to respond to each data match request, based upon the capabilities of the financial institution to handle the data match system, but in no event less than thirty days.

4. The financial institution shall have no obligation to hold, encumber, or surrender assets in any account based on a match until it is served with a lien or order to withhold and deliver in accordance with the provisions of this chapter.

The Department is authorized to pay a reasonable fee to a financial institution for conducting the data match, not to exceed the actual costs incurred by such financial institution and may assess and recover actual costs incurred from responsible persons identified as a result of the data match.

A financial institution providing information in accordance with this section shall not be liable to any account holder or other person for any disclosure of information to the Department, for encumbering or surrendering any assets held by such financial institution in response to a lien or order

to withhold and deliver issued by the Department, or for any other action taken pursuant to this section, including individual or mechanical errors, provided such action does not constitute gross negligence or willful misconduct.

For purposes of this section, "account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account maintained in this Commonwealth.

§ 63.1-274.6. Central unit for information and administration; cooperation enjoined; availability of records.

The Department of Social Services is authorized and directed to establish a central unit within the Department to administer the Title IV, D State Plan according to 45 C.F.R. 302.12. The central unit shall have the *statewide jurisdiction and authority* to:

1. Establish a registry for the receipt of information;
2. Answer interstate inquiries concerning responsible persons;
3. Coordinate and supervise departmental activities in relation to responsible persons to ensure effective cooperation with law-enforcement agencies; and
4. Contract and enter into cooperative agreements with individuals and agencies in order that they may assist the Department in its responsibilities.

The central unit within the Department shall supervise offices whose primary functions are:

1. Location of absent responsible persons.
2. Assessment of the ability of responsible persons to pay child or child and spousal support and to obtain health care coverage for dependent children.
3. Establishment, modification and enforcement of support obligations including health care coverage for dependent children, through administrative action.
4. Preparation of individual cases for court action existing under all laws of the Commonwealth.
5. Ensuring on a consistent basis that support continues in all cases in which support is assessed administratively or ordered by the court.
6. Provision of its services in establishing paternity and establishing and enforcing support obligations equally to public-assisted and nonpublic-assisted families.

To effectuate the purposes of this section, the Commissioner may request *and shall receive* from state, county and local agencies *within and without the Commonwealth, including but not limited to such agencies and entities responsible for vital records; tax and revenue; real and titled personal property; authorizations to engage in a business, trade, profession or occupation; employment security; motor vehicle licensing and registration; public assistance programs and corrections*, all information and assistance as authorized by this chapter. *Solely for the purposes of obtaining motor vehicle licensing and registration information from entities within and without the Commonwealth, the Division of Child Support Enforcement shall be deemed to be a criminal justice agency. With respect to individuals who owe child support or are alleged in a pending paternity proceeding to be a putative father, the Commissioner may request and shall receive the names and addresses of such individuals and the names and addresses of such individuals' employers as appearing in the customer records of public utilities, cable television companies and financial institutions.* All state, county and city agencies, officers and employees shall cooperate in the location of responsible persons who have abandoned or deserted, or are failing to support, children and their caretakers and shall on request supply the Department with all information on hand relative to the location, income, *benefits* and property of such responsible persons, notwithstanding any provision of law making such information confidential. *A civil penalty not to exceed \$1,000 may be assessed by the Commissioner for a failure to respond to a request for information made in accordance with this section.*

Any public or private person, partnership, firm, corporation or association, *any financial institution* and any political subdivision, department or other entity of the Commonwealth who in good faith and in the absence of gross negligence, willful misconduct or breach of an ethical duty, provide information requested pursuant to this section shall be immune from liability, civil or criminal, that might otherwise result from the release of such information to the Department.

Any records established pursuant to the provisions of this section shall be available only to the Attorney General, prosecuting attorneys, and courts of competent jurisdiction and agencies in other states engaged in the enforcement of support of children and their caretakers. Information pertaining to actions taken on behalf of recipients of child support services may be disclosed to the recipient and other parties pursuant to State Board regulations. The State Board shall promulgate regulations regarding the release of information to parties involved in administrative proceedings pursuant to this chapter, taking into account the health and safety of the parties to whom the information is related, and such releases of information shall be permitted, notwithstanding the provisions of the Privacy Protection Act, Chapter 26 (§ 2.1-377 et seq.) of Title 2.1. Information may also be disclosed to authorized persons, in accordance with 42 U.S.C. § 663, in cases of unlawful taking or restraint of a child.

The Division of Child Support Enforcement shall provide support payment arrearage information on responsible persons, as defined in § 63.1-250, to consumer credit bureaus and consumer credit reporting agencies; ~~upon their request, provided that the accumulated arrearage is at least \$1,000.~~ Advance notice

shall be sent to the responsible person of the proposed release of arrearage information. The notice shall include information on the procedures available to the responsible person for contesting the accuracy of the arrearage information.

§ 65.2-531. Assignments of compensation; exemption from creditors' claims.

A. No claim for compensation under this title shall be assignable. All compensation and claims therefor shall be exempt from all claims of creditors, even if the compensation is used for purchase of shares in a credit union, or deposited into an account with a financial institution or other organization accepting deposits and is thereby commingled with other funds. ~~Compensation~~ *However, benefits paid under §§ 65.2-500 and 65.2-502 in compensation or in compromise of a claim for compensation under this title* shall be subject to claims for spousal and child support subject to the same exemptions allowed for earnings in § 34-29.

B. Upon an order of garnishment, attachment or other levy addressed to a financial institution in which the principal defendant claims to have exempt funds hereunder, the principal defendant may file an answer asserting the exemption hereunder. From the time of service of such garnishment, attachment or levy, the financial institution, until further order of the court, shall hold the amount subject to such garnishment, attachment or levy, or such lesser amount or sum as it may have, which amount shall be set forth in its answer. It shall hold such amount free of any person drawing against such funds whether by check against such account or otherwise. The financial institution shall be subject to such further order or subpoena for discovery of its records, for which it shall be entitled an order or agreement for compensation for the expense of such service, and in a case deemed appropriate to the court by such an order directing deposit of funds or further security prior to such records being ordered produced.

§ 65.2-903. Records not public.

The records of the Commission, insofar as they refer to accidents, injuries and settlements, shall not be open to the public but only to the parties satisfying the Commission of their interest in such records and their right to inspect them; however, the Commission shall make its records about an injured employee available to the Virginia Employment Commission *and the Department of Social Services*, if ~~it~~ *either entity* requests such records. The Commission shall promulgate rules to ensure that information for the purpose of determining eligibility for employment shall not be provided without the written consent of the employee.