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HOUSE BILL NO. 2685

Offered January 20, 1997

A BILL to amend and reenact § 63.1-250.1 of the Code of Virginia, relating to administrative support orders; periodic review.

Patrons—Brickley, McDonnell, Almand, Bryant, Callahan, Cooper, Crouch, Davies, Diamonstein, Drake, Forbes, Heilig, Katzen, Kilgore, Landes, Marshall, McClure, Mims, Nixon, O'Brien, Orrock, Plum, Rollison, Scott and Van Yahres

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That § 63.1-250.1 of the Code of Virginia is amended and reenacted as follows:

§ 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~~ At the request of either parent subject to the order or of a state child support enforcement agency, ~~the Department shall~~ initiate a review of such order *every three years without requiring proof or showing of a change in circumstances*, and *shall* 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. 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 subpoena financial records of the responsible person and obligee from any person, firm, corporation, association, or political subdivision or department of the Commonwealth and to 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.

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

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60 out-of-state obligor. Service of such actions shall be in accordance with the provisions of §§ 8.01-296,
61 8.01-327, or § 8.01-329, or by certified mail, return receipt requested.

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