

# VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

## CHAPTER 595

*An Act to amend and reenact §§ 46.2-320 and 63.1-250.1 of the Code of Virginia, relating to child support enforcement; denial of driver's licenses and vehicle registrations; issuance of subpoenas.*

[S 1032]

Approved March 24, 1995

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-320 and 63.1-250.1 of the Code of Virginia are amended and reenacted as follows:**

§ 46.2-320. Other grounds for refusal or suspension.

The Department may refuse to grant an application for a driver's license in any of the circumstances set forth in § 46.2-608 as circumstances justifying the refusal of an application for the registration of a motor vehicle. The Department may refuse to issue or reissue a driver's license for the willful failure or refusal to pay any taxes or fees required to be collected or authorized to be collected by the Department.

*The Commissioner may enter into an agreement with the Department of Social Services whereby the Department 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 is delinquent in the payment of child support by ninety days or more or in an amount of \$5,000 or more. A suspension or refusal to renew authorized pursuant to this section shall not be effective until thirty days after receipt by the delinquent obligor of notice of intent to suspend or refuse to renew. The notice of intent shall be sent by certified mail by the Department of Social Services, with proof of actual receipt, to the obligor at the last known address as shown in the records of the Department or the Department of Social Services. The obligor shall be entitled to a judicial hearing if a request for a hearing is made, in writing, to the Department of Social Services within ten days of receipt of the notice of intent. Upon receipt of the request for a hearing the Department of Social Services shall petition the court that entered or is enforcing the order, requesting a hearing on the proposed suspension or refusal to renew. The court shall authorize the suspension or refusal to renew only if it finds that the obligor's noncompliance with the child support order was willful. Upon a showing by the Department of Social Services that the obligor is delinquent in the payment of child support by ninety days or more or in an amount of \$5,000 or more the burden of proving that the delinquency was not willful shall rest upon the obligor. The Department shall not suspend or refuse to renew the driver's license until a final determination is made by the court.*

*At any time after receipt of a notice of intent, the person may petition the general district court in the jurisdiction where he resides for the issuance of a restricted license to be used if the suspension or refusal to renew becomes effective. Upon such petition and a finding of good cause, the court may issue the restricted permit to operate a motor vehicle for any or all of the following purposes: (i) travel to and from his place of employment and for travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment; (ii) travel to and from school if such person is a student, upon proper written verification to the court that such person is enrolled in a continuing program of education; (iii) travel to and from visitation with a child of such person; or (iv) such other medically necessary travel as the court deems necessary and proper upon written verification of need by a licensed health professional.*

*The Department shall not renew a driver's license or terminate a license suspension of a person who has been found to be so delinquent in the payment of child support until it has received from the Department of Social Services a certification that the person has (i) paid the delinquency in full or (ii) reached an agreement with the obligee or the Department of Social Services to satisfy the delinquency and at least one payment has been made pursuant to the agreement. Certification by the Department of Social Services shall be made by electronic or telephonic communication on the same work day that payment required by clause (i) or (ii) is made.*

§ 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. 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. 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.

C. 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 of the Code 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.

D. 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.

E. 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.

F. 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.