

A bill for an act

relating to child support; adding a requirement for full compliance with payment agreements; amending Minnesota Statutes 2006, sections 518A.64; 518A.65; 518A.66; 518A.67; 518A.68; 518A.72, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2006, section 518A.64, is amended to read:

**518A.64 ADMINISTRATIVE SEEK EMPLOYMENT ORDERS.**

Subdivision 1. **Court order.** For any support order being enforced by the public authority, the public authority may seek a court order requiring the obligor to seek employment if:

(1) employment of the obligor cannot be verified;

(2) the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments; and

(3) the obligor is not in full compliance with a written payment plan.

Upon proper notice being given to the obligor, the court may enter a seek employment order if it finds that the obligor has not provided proof of gainful employment and has not consented to an order for income withholding under section 518A.53 or entered into a written payment plan approved by the court, a child support magistrate, or the public authority.

Subd. 2. **Contents of order.** The order to seek employment shall:

(1) order that the obligor seek employment within a determinate amount of time;

(2) order that the obligor file with the public authority on a weekly basis a report of at least five new attempts to find employment or of having found employment, which

**H.F. No. 2304, as introduced - 85th Legislative Session (2007-2008)**

report must include the names, addresses, and telephone numbers of any employers or businesses with whom the obligor attempted to seek employment and the name of the individual contact to whom the obligor made application for employment or to whom an inquiry was directed;

(3) notify the obligor that failure to fully comply with the order is evidence of a willful failure to pay support under section 518A.72;

(4) order that the obligor provide the public authority with verification of any reason for noncompliance with the order; and

(5) specify the duration of the order, not to exceed three months.

Sec. 2. Minnesota Statutes 2006, section 518A.65, is amended to read:

**518A.65 DRIVER'S LICENSE SUSPENSION.**

(a) Upon motion of an obligee, which has been properly served on the obligor and upon which there has been an opportunity for hearing, if a court finds that the obligor has been or may be issued a driver's license by the commissioner of public safety and the obligor is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and is not in full compliance with a written payment agreement pursuant to section 518A.69 that is approved by the court, a child support magistrate, or the public authority, the court shall order the commissioner of public safety to suspend the obligor's driver's license. The court's order must be stayed for 90 days in order to allow the obligor to execute a written payment agreement pursuant to section 518A.69. The payment agreement must be approved by either the court or the public authority responsible for child support enforcement. If the obligor has not executed or is not in full compliance with a written payment agreement pursuant to section 518A.69 after the 90 days expires, the court's order becomes effective and the commissioner of public safety shall suspend the obligor's driver's license. The remedy under this section is in addition to any other enforcement remedy available to the court. An obligee may not bring a motion under this paragraph within 12 months of a denial of a previous motion under this paragraph.

(b) If a public authority responsible for child support enforcement determines that the obligor has been or may be issued a driver's license by the commissioner of public safety and the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and not in full compliance with a written payment agreement pursuant to section 518A.69 that is approved by the court, a child support magistrate, or the public authority, the public authority shall direct the commissioner of

**H.F. No. 2304, as introduced - 85th Legislative Session (2007-2008)**

public safety to suspend the obligor's driver's license. The remedy under this section is in addition to any other enforcement remedy available to the public authority.

(c) At least 90 days prior to notifying the commissioner of public safety according to paragraph (b), the public authority must mail a written notice to the obligor at the obligor's last known address, that it intends to seek suspension of the obligor's driver's license and that the obligor must request a hearing within 30 days in order to contest the suspension. If the obligor makes a written request for a hearing within 30 days of the date of the notice, a court hearing must be held. Notwithstanding any law to the contrary, the obligor must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the obligor. The notice must include information that appraises the obligor of the requirement to develop a written payment agreement that is approved by a court, a child support magistrate, or the public authority responsible for child support enforcement regarding child support, maintenance, and any arrearages in order to avoid license suspension. The notice may be served personally or by mail. If the public authority does not receive a request for a hearing within 30 days of the date of the notice, and the obligor does not execute a written payment agreement pursuant to section 518A.69 that is approved by the public authority within 90 days of the date of the notice, the public authority shall direct the commissioner of public safety to suspend the obligor's driver's license under paragraph (b).

(d) At a hearing requested by the obligor under paragraph (c), and on finding that the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments, the district court or child support magistrate shall order the commissioner of public safety to suspend the obligor's driver's license or operating privileges unless the court or child support magistrate determines that the obligor has executed and is in full compliance with a written payment agreement pursuant to section 518A.69 that is approved by the court, a child support magistrate, or the public authority.

(e) An obligor whose driver's license or operating privileges are suspended may:

(1) provide proof to the public authority responsible for child support enforcement that the obligor is in full compliance with all written payment agreements pursuant to section 518A.69;

(2) bring a motion for reinstatement of the driver's license. At the hearing, if the court or child support magistrate orders reinstatement of the driver's license, the court or child support magistrate must establish a written payment agreement pursuant to section 518A.69; or

**H.F. No. 2304, as introduced - 85th Legislative Session (2007-2008)**

(3) seek a limited license under section 171.30. A limited license issued to an obligor under section 171.30 expires 90 days after the date it is issued.

Within 15 days of the receipt of that proof or a court order, the public authority shall inform the commissioner of public safety that the obligor's driver's license or operating privileges should no longer be suspended.

(f) On January 15, 1997, and every two years after that, the commissioner of human services shall submit a report to the legislature that identifies the following information relevant to the implementation of this section:

(1) the number of child support obligors notified of an intent to suspend a driver's license;

(2) the amount collected in payments from the child support obligors notified of an intent to suspend a driver's license;

(3) the number of cases paid in full and payment agreements executed in response to notification of an intent to suspend a driver's license;

(4) the number of cases in which there has been notification and no payments or payment agreements;

(5) the number of driver's licenses suspended;

(6) the cost of implementation and operation of the requirements of this section; and

(7) the number of limited licenses issued and number of cases in which payment agreements are executed and cases are paid in full following issuance of a limited license.

(g) In addition to the criteria established under this section for the suspension of an obligor's driver's license, a court, a child support magistrate, or the public authority may direct the commissioner of public safety to suspend the license of a party who has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding. Notice to an obligor of intent to suspend must be served by first class mail at the obligor's last known address. The notice must inform the obligor of the right to request a hearing. If the obligor makes a written request within ten days of the date of the hearing, a hearing must be held. At the hearing, the only issues to be considered are mistake of fact and whether the obligor received the subpoena.

(h) The license of an obligor who fails to remain in full compliance with an approved written payment agreement may be suspended. Prior to suspending a license for noncompliance with an approved written payment agreement, the public authority must mail to the obligor's last known address a written notice that (1) the public authority intends to seek suspension of the obligor's driver's license under this paragraph, and (2) the obligor must request a hearing, within 30 days of the date of the notice, to contest the suspension. If, within 30 days of the date of the notice, the public authority does not receive a written

**H.F. No. 2304, as introduced - 85th Legislative Session (2007-2008)**

request for a hearing and the obligor does not fully comply with an approved written payment agreement, the public authority must direct the Department of Public Safety to suspend the obligor's license under paragraph (b). If the obligor makes a written request for a hearing within 30 days of the date of the notice, a court hearing must be held. Notwithstanding any law to the contrary, the obligor must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the obligor. The notice may be served personally or by mail at the obligor's last known address. If the obligor appears at the hearing and the court determines that the obligor has failed to fully comply with an approved written payment agreement, the court or public authority shall notify the Department of Public Safety to suspend the obligor's license under paragraph (b). If the obligor fails to appear at the hearing, the court or public authority must notify the Department of Public Safety to suspend the obligor's license under paragraph (b).

Sec. 3. Minnesota Statutes 2006, section 518A.66, is amended to read:

**518A.66 OCCUPATIONAL LICENSE SUSPENSION.**

(a) Upon motion of an obligee, if the court finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state, county, or municipal agency or board that issues an occupational license and the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and is not in full compliance with a written payment agreement pursuant to section 518A.69 that is approved by the court, a child support magistrate, or the public authority, the court shall direct the licensing board or other licensing agency to suspend the license under section 214.101. The court's order must be stayed for 90 days in order to allow the obligor to execute a written payment agreement pursuant to section 518A.69. The payment agreement must be approved by either the court or the public authority responsible for child support enforcement. If the obligor has not executed or is not in full compliance with a written payment agreement pursuant to section 518A.69 after the 90 days expires, the court's order becomes effective. If the obligor is a licensed attorney, the court shall report the matter to the Lawyers Professional Responsibility Board for appropriate action in accordance with the Rules of Professional Conduct. The remedy under this section is in addition to any other enforcement remedy available to the court.

(b) If a public authority responsible for child support enforcement finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state, county, or municipal agency or board that issues an occupational license and the obligor is in arrears in court-ordered child support or maintenance payments or both in

**H.F. No. 2304, as introduced - 85th Legislative Session (2007-2008)**

an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and is not in full compliance with a written payment agreement pursuant to section 518A.69 that is approved by the court, a child support magistrate, or the public authority, the court or the public authority shall direct the licensing board or other licensing agency to suspend the license under section 214.101. If the obligor is a licensed attorney, the public authority may report the matter to the Lawyers Professional Responsibility Board for appropriate action in accordance with the Rules of Professional Conduct. The remedy under this section is in addition to any other enforcement remedy available to the public authority.

(c) At least 90 days before notifying a licensing authority or the Lawyers Professional Responsibility Board under paragraph (b), the public authority shall mail a written notice to the license holder addressed to the license holder's last known address that the public authority intends to seek license suspension under this section and that the license holder must request a hearing within 30 days in order to contest the suspension. If the license holder makes a written request for a hearing within 30 days of the date of the notice, a court hearing or a hearing under section 484.702 must be held. Notwithstanding any law to the contrary, the license holder must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the license holder. The notice may be served personally or by mail. If the public authority does not receive a request for a hearing within 30 days of the date of the notice, and the obligor does not execute a written payment agreement pursuant to section 518A.69 that is approved by the public authority within 90 days of the date of the notice, the public authority shall direct the licensing board or other licensing agency to suspend the obligor's license under paragraph (b), or shall report the matter to the Lawyers Professional Responsibility Board.

(d) The public authority or the court shall notify the Lawyers Professional Responsibility Board for appropriate action in accordance with the Rules of Professional Responsibility Conduct or order the licensing board or licensing agency to suspend the license if the judge finds that:

(1) the person is licensed by a licensing board or other state agency that issues an occupational license;

(2) the person has not made full payment of arrearages found to be due by the public authority; and

(3) the person has not executed or is not in full compliance with a payment plan approved by the court, a child support magistrate, or the public authority.

(e) Within 15 days of the date on which the obligor either makes full payment of arrearages found to be due by the court or public authority or executes and initiates good

**H.F. No. 2304, as introduced - 85th Legislative Session (2007-2008)**

faith compliance with a written payment plan approved by the court, a child support magistrate, or the public authority, the court, a child support magistrate, or the public authority responsible for child support enforcement shall notify the licensing board or licensing agency or the Lawyers Professional Responsibility Board that the obligor is no longer ineligible for license issuance, reinstatement, or renewal under this section.

(f) In addition to the criteria established under this section for the suspension of an obligor's occupational license, a court, a child support magistrate, or the public authority may direct the licensing board or other licensing agency to suspend the license of a party who has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding. Notice to an obligor of intent to suspend must be served by first class mail at the obligor's last known address. The notice must inform the obligor of the right to request a hearing. If the obligor makes a written request within ten days of the date of the hearing, a hearing must be held. At the hearing, the only issues to be considered are mistake of fact and whether the obligor received the subpoena.

(g) The license of an obligor who fails to remain in full compliance with an approved written payment agreement may be suspended. Prior to suspending a license for noncompliance with an approved written payment agreement, the public authority must mail to the obligor's last known address a written notice that (1) the public authority intends to seek suspension of the obligor's occupational license under this paragraph, and (2) the obligor must request a hearing, within 30 days of the date of the notice, to contest the suspension. If, within 30 days of the date of the notice, the public authority does not receive a written request for a hearing and the obligor does not fully comply with an approved written payment agreement, the public authority must direct the licensing board or other licensing agency to suspend the obligor's license under paragraph (b), and, if the obligor is a licensed attorney, must report the matter to the Lawyers Professional Responsibility Board. If the obligor makes a written request for a hearing within 30 days of the date of the notice, a court hearing must be held. Notwithstanding any law to the contrary, the obligor must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the obligor. The notice may be served personally or by mail to the obligor's last known address. If the obligor appears at the hearing and the court determines that the obligor has failed to fully comply with an approved written payment agreement, the court or public authority must notify the occupational licensing board or other licensing agency to suspend the obligor's license under paragraph (b) and, if the obligor is a licensed attorney, must report the matter to the Lawyers Professional Responsibility Board. If the obligor fails to appear at the hearing, the court or public authority must notify the occupational licensing board or other licensing

**H.F. No. 2304, as introduced - 85th Legislative Session (2007-2008)**

agency to suspend the obligor's license under paragraph (b), and if the obligor is a licensed attorney, must report the matter to the Lawyers Professional Responsibility Board.

Sec. 4. Minnesota Statutes 2006, section 518A.67, is amended to read:

**518A.67 MOTOR VEHICLE LIEN.**

(a) Upon motion of an obligee, if a court finds that the obligor is a debtor for a judgment debt resulting from nonpayment of court-ordered child support or maintenance payments, or both, in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments, the court shall order the commissioner of public safety to enter a lien in the name of the obligee or in the name of the state of Minnesota, as appropriate, in accordance with section 168A.05, subdivision 8, unless the court finds that the obligor is in full compliance with a written payment agreement pursuant to section 518A.69 that is approved by the court, a child support magistrate, or the public authority. The court's order must be stayed for 90 days in order to allow the obligor to execute a written payment agreement pursuant to section 518A.69, which shall be approved by either the court or the public authority responsible for child support enforcement. If the obligor has not executed or is not in full compliance with a written payment agreement pursuant to section 518A.69 that is approved by the court, a child support magistrate, or the public authority within the 90-day period, the court's order becomes effective and the commissioner of public safety shall record the lien on any motor vehicle certificate of title subsequently issued in the name of the obligor. The remedy under this section is in addition to any other enforcement remedy available to the court.

(b) If a public authority responsible for child support enforcement determines that the obligor is a debtor for judgment debt resulting from nonpayment of court-ordered child support or maintenance payments, or both, in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments, the public authority shall direct the commissioner of public safety to enter a lien in the name of the obligee or in the name of the state of Minnesota, as appropriate, under section 168A.05, subdivision 8, on any motor vehicle certificate of title subsequently issued in the name of the obligor unless the public authority determines that the obligor is in full compliance with a written payment agreement pursuant to section 518A.69 that is approved by the court, a child support magistrate, or the public authority. The remedy under this section is in addition to any other enforcement remedy available to the public agency.

(c) At least 90 days prior to notifying the commissioner of public safety pursuant to paragraph (b), the public authority must mail a written notice to the obligor at the obligor's last known address, that it intends to record a lien on any motor vehicle certificate of

**H.F. No. 2304, as introduced - 85th Legislative Session (2007-2008)**

title subsequently issued in the name of the obligor and that the obligor must request a hearing within 30 days in order to contest the action. If the obligor makes a written request for a hearing within 30 days of the date of the notice, a court hearing must be held. Notwithstanding any law to the contrary, the obligor must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the obligor. The notice may be served personally or by mail. If the public authority does not receive a request for a hearing within 30 days of the date of the notice and the obligor does not execute or is not in full compliance with a written payment agreement pursuant to section 518A.69 that is approved by the public authority within 90 days of the date of the notice, the public authority shall direct the commissioner of public safety to record the lien under paragraph (b).

(d) At a hearing requested by the obligor under paragraph (c), and on finding that the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments, the district court or child support magistrate shall order the commissioner of public safety to record the lien unless the court or child support magistrate determines that the obligor has executed and is in full compliance with a written payment agreement pursuant to section 518A.69 that is determined to be acceptable by the court, a child support magistrate, or the public authority.

(e) An obligor may provide proof to the court or the public authority responsible for child support enforcement that the obligor is in full compliance with all written payment agreements pursuant to section 518A.69 or that the value of the motor vehicle is less than the exemption provided under section 550.37. Within 15 days of the receipt of that proof, the court or public authority shall either execute a release of security interest under section 168A.20, subdivision 4, and mail or deliver the release to the owner or other authorized person or shall direct the commissioner of public safety not to enter a lien on any motor vehicle certificate of title subsequently issued in the name of the obligor in instances where a lien has not yet been entered.

(f) Any lien recorded against a motor vehicle certificate of title under this section and section 168A.05, subdivision 8, attaches only to the nonexempt value of the motor vehicle as determined in accordance with section 550.37. The value of a motor vehicle must be determined in accordance with the retail value described in the N.A.D.A. Official Used Car Guide, Midwest Edition, for the current year, or in accordance with the purchase price as defined in section 297B.01, subdivision 8.

Sec. 5. Minnesota Statutes 2006, section 518A.68, is amended to read:

**518A.68 RECREATIONAL LICENSE SUSPENSION.**

(a) Upon motion of an obligee or the public authority, which has been properly served on the obligor by first class mail at the last known address or in person, and if at a hearing, the court finds that (1) the obligor is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than six times the obligor's total monthly support and maintenance payments and is not in full compliance with a written payment agreement pursuant to section 518A.69, or (2) has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding, the court may direct the commissioner of natural resources to suspend or bar receipt of the obligor's recreational license or licenses. Prior to utilizing this section, the court must find that other substantial enforcement mechanisms have been attempted but have not resulted in compliance.

(b) For purposes of this section, a recreational license includes all licenses, permits, and stamps issued centrally by the commissioner of natural resources under sections 97B.301, 97B.401, 97B.501, 97B.515, 97B.601, 97B.715, 97B.721, 97B.801, 97C.301, and 97C.305.

(c) An obligor whose recreational license or licenses have been suspended or barred may provide proof to the court that the obligor is in full compliance with all written payment agreements pursuant to section 518A.69. Within 15 days of receipt of that proof, the court shall notify the commissioner of natural resources that the obligor's recreational license or licenses should no longer be suspended nor should receipt be barred.

Sec. 6. Minnesota Statutes 2006, section 518A.72, subdivision 1, is amended to read:

Subdivision 1. **Grounds.** If a person against whom an order or decree for support has been entered under this chapter, chapter 256, chapter 518, or a comparable law from another jurisdiction, is in arrears in court-ordered child support or maintenance payments in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and is not in full compliance with a written payment plan approved by the court, a child support magistrate, or the public authority, the person ~~may~~ shall be cited and punished by the court for contempt under section 518A.39, chapter 588, or this section. Failure to fully comply with a seek employment order entered under section 518A.64 is evidence of willful failure to pay support.