

HOUSE BILL NO. 419

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PROUDIE.

1127H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 454.1000, 454.1003, 454.1005, 454.1008, 454.1010, 454.1013, 454.1015, 454.1018, 454.1020, 454.1023, 454.1025, 454.1027, 454.1029, and 454.1031, RSMo, relating to child support.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 454.1000, 454.1003, 454.1005, 454.1008, 454.1010, 454.1013, 454.1015, 454.1018, 454.1020, 454.1023, 454.1025, 454.1027, 454.1029, and 454.1031, RSMo, are repealed, to read as follows:

~~[454.1000. As used in sections 454.1000 to 454.1025, the following terms mean:~~

- ~~(1) "Arrearage", the amount created by a failure to provide:~~
- ~~(a) Support to a child pursuant to an administrative or judicial support order; or~~
- ~~(b) Support to a spouse if the judgment or order requiring payment of spousal support also requires payment of child support and such spouse is the custodial parent;~~
- ~~(2) "Child", a person for whom child support is due pursuant to a support order;~~
- ~~(3) "Court", any circuit court of the state that enters a support order or a circuit court in which such order is registered or filed;~~
- ~~(4) "Director", the director of the family support division;~~
- ~~(5) "Division", the family support division of the department of social services;~~
- ~~(6) "IV-D case", a case in which support rights are assigned to the state pursuant to section 208.040 or the division is providing support enforcement services pursuant to section 454.425;~~

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 ~~————— (7) "License", a license, certificate, registration or authorization issued~~
 20 ~~by a licensing authority granting a person a right or privilege to engage in a~~
 21 ~~business, occupation, profession, recreation or other related privilege that is~~
 22 ~~subject to suspension, revocation, forfeiture or termination by the licensing~~
 23 ~~authority prior to its date of expiration, except for any license issued by the~~
 24 ~~department of conservation. Licenses include licenses to operate motor vehicles~~
 25 ~~pursuant to chapter 302, but shall not include motor vehicle registrations pursuant~~
 26 ~~to chapter 301;~~

27 ~~————— (8) "Licensing authority", any department, except for the department of~~
 28 ~~conservation, division, board, agency or instrumentality of this state or any~~
 29 ~~political subdivision thereof that issues a license. Any board or commission~~
 30 ~~assigned to the division of professional registration is included in the definition~~
 31 ~~of licensing authority;~~

32 ~~————— (9) "Obligee":~~

33 ~~————— (a) A person to whom payments are required to be made pursuant to a~~
 34 ~~support order; or~~

35 ~~————— (b) A public agency of this or any other state which has the right to~~
 36 ~~receive current or accrued support payments or provides support enforcement~~
 37 ~~services pursuant to this chapter;~~

38 ~~————— (10) "Obligor", a person who owes a duty of support;~~

39 ~~————— (11) "Order suspending a license", an order issued by a court or the~~
 40 ~~director to suspend a license. The order shall contain the name of the obligor,~~
 41 ~~date of birth of the obligor, the type of license and the Social Security number of~~
 42 ~~the obligor;~~

43 ~~————— (12) "Payment plan" includes, but is not limited to, a written plan~~
 44 ~~approved by the court or division that incorporates an income withholding~~
 45 ~~pursuant to sections 452.350 and 454.505 or a similar plan for periodic payment~~
 46 ~~of an arrearage, and current and future support, if applicable;~~

47 ~~————— (13) "Support order", an order providing a determinable amount for~~
 48 ~~temporary or final periodic payment of support. Such order may include payment~~
 49 ~~of a determinable amount of insurance, medical or other expenses of the child~~
 50 ~~issued by:~~

51 ~~————— (a) A court of this state;~~

52 ~~————— (b) A court or administrative agency of competent jurisdiction of another~~
 53 ~~state, an Indian tribe, or a foreign country; or~~

54 ~~————— (c) The director of the division.]~~

55

2 ~~[454.1003. 1. A court or the director of the family support division may~~
 3 ~~issue an order, or in the case of a business, professional or occupational license,~~
 4 ~~only a court may issue an order, suspending an obligor's license and ordering the~~
 5 ~~obligor to refrain from engaging in a licensed activity in the following cases:~~

6 ~~————— (1) When the obligor is not making child support payments in accordance~~
~~with a support order and owes an arrearage in an amount greater than or equal to~~

7 three months support payments or two thousand five hundred dollars, whichever
 8 is less, as of the date of service of a notice of intent to suspend such license; or
 9 ~~(2) When the obligor or any other person, after receiving appropriate~~
 10 ~~notice, fails to comply with a subpoena of a court or the director concerning~~
 11 ~~actions relating to the establishment of paternity, or to the establishment,~~
 12 ~~modification or enforcement of support orders, or order of the director for genetic~~
 13 ~~testing.~~

14 ~~2. In any case but a IV-D case, upon the petition of an obligee alleging~~
 15 ~~the existence of an arrearage, a court with jurisdiction over the support order may~~
 16 ~~issue a notice of intent to suspend a license. In a IV-D case, the director, or a~~
 17 ~~court at the request of the director, may issue a notice of intent to suspend.~~

18 ~~3. The notice of intent to suspend a license shall be served on the obligor~~
 19 ~~personally or by certified mail. If the proposed suspension of license is based on~~
 20 ~~the obligor's support arrearage, the notice shall state that the obligor's license~~
 21 ~~shall be suspended sixty days after service unless, within such time, the obligor:~~

22 ~~(1) Pays the entire arrearage stated in the notice;~~

23 ~~(2) Enters into and complies with a payment plan approved by the court~~
 24 ~~or the division; or~~

25 ~~(3) Requests a hearing before the court or the director.~~

26 ~~4. In a IV-D case, the notice shall advise the obligor that hearings are~~
 27 ~~subject to the contested case provisions of chapter 536.~~

28 ~~5. If the proposed suspension of license is based on the alleged failure to~~
 29 ~~comply with a subpoena relating to paternity or a child support proceeding, or~~
 30 ~~order of the director for genetic testing, the notice of intent to suspend shall~~
 31 ~~inform the person that such person's license shall be suspended sixty days after~~
 32 ~~service, unless the person complies with the subpoena or order.~~

33 ~~6. If the obligor fails to comply with the terms of repayment agreement,~~
 34 ~~a court or the division may issue a notice of intent to suspend the obligor's~~
 35 ~~license.~~

36 ~~7. In addition to the actions to suspend or withhold licenses pursuant to~~
 37 ~~this chapter, a court or the director of the family support division may restrict~~
 38 ~~such licenses in accordance with the provisions of this chapter.]~~

39
 [454.1005. 1. To show cause why suspension of a license may not be
 2 appropriate, the obligor shall request a hearing from the court or division that
 3 issued the notice of intent to suspend the license. The request shall be made
 4 within sixty days of the date of service of notice.

5 ~~2. If an obligor fails to respond, without good cause, to a notice of intent~~
 6 ~~to suspend a license, timely request a hearing or comply with a payment plan, the~~
 7 ~~obligor's defenses and objections shall be considered to be without merit and the~~
 8 ~~court or director may enter an order suspending the obligor's license and ordering~~
 9 ~~the obligor to refrain from engaging in the licensed activity.~~

10 ~~3. Upon timely receipt of a request for hearing from an obligor, the court~~
 11 ~~or director shall schedule a hearing to determine if suspension of the obligor's~~
 12 ~~license is appropriate. The court or director shall stay suspension of the license~~
 13 ~~pending the outcome of the hearing.~~

14 ~~4. If the action involves an arrearage, the only issues that may be~~
 15 ~~determined in a hearing pursuant to this section are:~~

16 ~~(1) The identity of the obligor;~~

17 ~~(2) Whether the arrearage is in an amount greater than or equal to three~~
 18 ~~months of support payments or two thousand five hundred dollars, whichever is~~
 19 ~~less, by the date of service of a notice of intent to suspend; and~~

20 ~~(3) Whether the obligor has entered a payment plan. If the action~~
 21 ~~involves a failure to comply with a subpoena or order, the only issues that may~~
 22 ~~be determined are the identity of the obligor and whether the obligor has~~
 23 ~~complied with the subpoena or order.~~

24 ~~5. If the court or director, after hearing, determines that the obligor has~~
 25 ~~failed to comply with any of the requirements in subsection 4 of this section, the~~
 26 ~~court or director shall issue an order suspending the obligor's license and ordering~~
 27 ~~the obligor to refrain from engaging in the licensed activity.~~

28 ~~6. The court or division shall send a copy of the order suspending a~~
 29 ~~license to the licensing authority and the obligor by certified mail.~~

30 ~~7. The determination of the director, after a hearing pursuant to this~~
 31 ~~section, shall be a final agency decision and shall be subject to judicial review~~
 32 ~~pursuant to chapter 536. Administrative hearings held pursuant to this section~~
 33 ~~shall be conducted by hearing officers appointed by the director of the department~~
 34 ~~pursuant to subsection 1 of section 454.475.~~

35 ~~8. A determination made by the court or division pursuant to this section~~
 36 ~~is independent of any proceeding of the licensing authority to suspend, revoke,~~
 37 ~~deny, terminate or renew a license.]~~

38

2 ~~[454.1008. 1. Upon receipt of an order suspending a license, a licensing~~
 authority shall:

3 ~~(1) Determine if the licensing authority has issued a license to the obligor~~
 4 ~~whose name appears on the order;~~

5 ~~(2) Enter the suspension as effective from the date of the order issued by~~
 6 ~~the court or division;~~

7 ~~(3) Issue the notice of the suspension to the licensee; and~~

8 ~~(4) If required by law, demand surrender of the suspended license.~~

9 ~~2. An order issued by a court or the director suspending a license shall~~
 10 ~~be processed by the licensing authority without any additional review or hearing~~
 11 ~~by such licensing authority.~~

12 ~~3. Notwithstanding the provisions of any other law regarding the~~
 13 ~~suspension, revocation, denial, termination or renewal of a license to the contrary,~~
 14 ~~an order issued by a court or the director suspending a license shall be~~

15 implemented by the licensing authority and continue until the court or division
 16 advises the licensing authority that such suspension has been stayed or
 17 terminated. The obligor may not appeal the suspension of a license pursuant to
 18 sections 454.1000 to 454.1025 pursuant to any other law, including, but not
 19 limited to, section 302.311. The exclusive procedure for appeal is provided in
 20 sections 454.1000 to 454.1025.

21 ~~4. If a license is suspended, any funds paid by the obligor to the licensing~~
 22 ~~authority for costs related to issuance, renewal or maintenance of a license shall~~
 23 ~~not be refunded to the obligor.~~

24 ~~5. Unless acting pursuant to an order of a court or the director which~~
 25 ~~stays the suspension of a license, an obligor who continues to engage in the~~
 26 ~~business, occupation, profession or other licensed activity while the license is~~
 27 ~~suspended pursuant to this section is guilty of a class A misdemeanor, unless a~~
 28 ~~penalty is otherwise provided. The division or the licensing authority may refer~~
 29 ~~the obligor to the appropriate prosecuting or circuit attorney or the attorney~~
 30 ~~general for prosecution pursuant to this section in addition to any other remedy~~
 31 ~~provided by law for engaging in a licensed activity without a license or while a~~
 32 ~~license is suspended.~~

33 ~~6. The licensing authority shall be exempt from liability to the licensee~~
 34 ~~for activities conducted pursuant to this section.~~

35 ~~7. The licensing authority shall not modify, remand, reverse, vacate or~~
 36 ~~stay an order of the court or director suspending a license.~~

37 ~~8. If the license suspended is a driver's license, the obligor shall have no~~
 38 ~~rights pursuant to section 302.311.]~~

39

[454.1010. 1. An obligor may, at any time, petition a court or the director
 2 for an order to stay the suspension of a license. Any petition seeking to stay an
 3 order of the director shall be served on the director.

4 ~~2. The court or director may consider the obligor's petition for a stay~~
 5 ~~separately from any determination on the suspension of a license.~~

6 ~~3. The court, but not the director, may stay suspension of a license upon~~
 7 ~~a showing that a suspension or continued suspension of a license would create a~~
 8 ~~significant hardship to the obligor, the obligor's employees, any legal dependents~~
 9 ~~residing in the obligor's household, or persons, businesses or other entities served~~
 10 ~~by the obligor.~~

11 ~~4. The court or director may stay suspension of a license upon entry of~~
 12 ~~a payment plan or receipt of adequate assurance that the obligor shall comply~~
 13 ~~with an existing payment plan.~~

14 ~~5. A stay shall terminate if:~~

15 ~~(1) A court determines that the significant hardship circumstance~~
 16 ~~pursuant to subsection 3 of this section has ended;~~

17 ~~(2) The court or division determines that the obligor has failed to abide~~
 18 ~~by the terms and conditions of a payment plan; or~~

19 ~~_____ (3) The order staying suspension of a license has a termination date and~~
20 ~~such date has been reached.~~

21 ~~_____ 6. If the licensing authority is notified of an order suspending a license,~~
22 ~~the court or division shall send a copy of any order staying or reimposing~~
23 ~~suspension of the license to the licensing authority and the obligor by certified~~
24 ~~mail.~~

25 ~~_____ 7. Upon receipt of an order staying or reimposing suspension of the~~
26 ~~license, the licensing authority shall:~~

27 ~~_____ (1) Enter the information on appropriate records;~~

28 ~~_____ (2) Issue notice of the action to the licensee; and~~

29 ~~_____ (3) If required by law, demand surrender of the suspended license or~~
30 ~~return the reinstated license.~~

31 ~~_____ 8. No additional action by the licensing authority shall be required to~~
32 ~~implement a stay or reinstatement of suspension of a license.~~

33 ~~_____ 9. This section shall be the exclusive remedy for the obligor to obtain an~~
34 ~~order staying suspension of a license pursuant to sections 454.1000 to 454.1025.~~
35 ~~Any other provisions providing for the issuance of hardship licenses, including,~~
36 ~~but not limited to, those provided in section 302.309, do not apply to suspensions~~
37 ~~pursuant to sections 454.1000 to 454.1025.~~

38 ~~_____ 10. No person shall be required to file proof of financial responsibility~~
39 ~~with the department of revenue as a condition of reinstatement of a driver's~~
40 ~~license suspended solely pursuant to the provisions of sections 454.1000 to~~
41 ~~454.1025.~~

42 ~~_____ 11. Any person whose license to operate a motor vehicle in this state has~~
43 ~~been suspended pursuant to this section shall, before having the license~~
44 ~~reinstated, pay to the director of revenue a reinstatement fee of twenty dollars.]~~
45

2 ~~[454.1013. 1. If a court or the division determines that an arrearage has~~
3 ~~been paid in full, or the obligor has complied with the subpoena or order of the~~
4 ~~director, the court or division shall terminate the order suspending the license and~~
5 ~~immediately send a copy of the order terminating the suspension of the license~~
6 ~~to the licensing authority and the obligor by certified mail.~~

7 ~~_____ 2. Entry of an order terminating suspension of a license shall not prevent~~
8 ~~a court or the director from issuing a new order suspending the license of the~~
9 ~~same obligor in the event of another arrearage.]~~

2 ~~[454.1015. A licensing authority may charge the obligor a reasonable fee~~
3 ~~for the administrative costs incurred by such licensing authority in taking action~~
4 ~~against the obligor's license pursuant to sections 454.1000 to 454.1025.]~~

2 ~~[454.1018. The division shall promulgate rules necessary for the~~
implementation and administration of sections 454.1000 to 454.1025. No rule

3 or portion of a rule promulgated pursuant to the authority of this section shall
 4 become effective unless it is promulgated pursuant to section 536.024.]
 5

[454.1020. 1. Upon request by the division, all state licensing authorities
 2 subject to sections 454.1000 to 454.1025 shall provide specified information, on
 3 magnetic tape or other machine-readable form, to the division pursuant to the
 4 standards established by the division regarding applicants for licensure and all
 5 current licenses. Such information shall include the following, if available:

- 6 _____ (1) Name;
- 7 _____ (2) Address of record;
- 8 _____ (3) Date of birth;
- 9 _____ (4) Federal employer identification number or Social Security number;
- 10 _____ (5) Type of license;
- 11 _____ (6) Effective date of the license or renewal;
- 12 _____ (7) Expiration date of the license; and
- 13 _____ (8) Active or inactive status.

14 _____ 2. All licensing authorities not providing the information required by
 15 subsection 1 of this section shall, upon request by the division, provide such
 16 information in any readable format for any licensee of the licensing authority.

17 _____ 3. The provisions of this section shall, at no time, preclude the division
 18 from requesting the information provided by a licensing authority pursuant to
 19 section 454.440.]
 20

[454.1023. The family support division is hereby authorized, pursuant to
 2 a cooperative agreement with the supreme court, to develop procedures which
 3 shall permit the clerk of the supreme court to furnish the division, at least once
 4 each year, with a list of persons currently licensed to practice law in this state.
 5 If any such person has an arrearage in an amount equal to or greater than three
 6 months of support payments or two thousand five hundred dollars, the division
 7 shall notify the clerk of the supreme court that such person has an arrearage.]
 8

[454.1025. By July 1, 1998, the supreme court is requested to have in
 2 effect a rule in accordance with 42 U.S.C. section 666(a)(16) which shall permit
 3 the suspension or other sanctioning of a law license for any person who owes an
 4 arrearage in an amount equal to or greater than three months of support payments
 5 or two thousand five hundred dollars, whichever first occurs.]
 6

[454.1027. Notwithstanding any provision of sections 454.1000 to
 2 454.1027 to the contrary, the following procedures shall apply between the family
 3 support division and the department of conservation regarding the suspension of
 4 hunting and fishing licenses:

- 5 _____ (1) The family support division shall be responsible for making the
 6 determination whether an individual's license should be suspended based on the

7 reasons specified in section 454.1003, after ensuring that each individual is
8 provided due process, including appropriate notice and opportunity for
9 administrative hearing;

10 ~~(2) If the family support division determines, after completion of all due~~
11 ~~process procedures available to an individual, that an individual's license should~~
12 ~~be suspended, the division shall notify the department of conservation. The~~
13 ~~department or commission shall develop a rule consistent with a cooperative~~
14 ~~agreement between the family support division, the department of conservation~~
15 ~~and the conservation commission, and in accordance with 42 U.S.C. Section~~
16 ~~666(a)(16) which shall require the suspension of a license for any person based~~
17 ~~on the reasons specified in section 454.1003. Such suspension shall remain in~~
18 ~~effect until the department is notified by the division that such suspension should~~
19 ~~be stayed or terminated because the individual is now in compliance with~~
20 ~~applicable child support laws.]~~

21

2 ~~[454.1029. For obligors that have been making regular child support~~
3 ~~payments in accordance with an agreement entered into with the family support~~
4 ~~division, the license shall not be suspended while the obligor honors such~~
5 ~~agreement.]~~

5

2 ~~[454.1031. All penalties that apply to an obligor in sections 454.1000 to~~
3 ~~454.1029 shall also apply to any person who has, without good cause as~~
4 ~~determined by a court with jurisdiction, denied or interfered with any order for~~
5 ~~visitation or custody for two or more consecutive periods. Any such penalties~~
6 ~~shall be imposed by a court with jurisdiction, and may be modified or vacated by~~
7 ~~the court for good cause shown, and the division shall have no jurisdiction over~~
8 ~~such matters.]~~

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