

SECOND REGULAR SESSION

HOUSE BILL NO. 1307

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE NEELY.

3759H.01I

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, and to enact in lieu thereof four new sections 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454.1010, 454.1013, 454.1015, 454.1018, 454.1020, 454.1023, 454.1025, 454.1027, 454.1029, and 454.1031, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 454.1000, 454.1003, 454.1013, and 454.1031 to read as follows:

454.1000. As used in sections 454.1000 [~~to 454.1025~~] , **454.1003, 454.1013, and 454.1031**, the following terms mean:

- 3 (1) "Arrearage", the amount created by a failure to provide:
 - 4 (a) Support to a child pursuant to an administrative or judicial support order; or
 - 5 (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;
 - 7 (2) "Child", a person for whom child support is due pursuant to a support order;
 - 8 (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;
 - 10 (4) "Director", the director of the family support division;
 - 11 (5) "Division", the family support division of the department of social services;
 - 12 (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.

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

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

25 (9) ~~"Obligee"~~:

26 (a) A person to whom payments are required to be made pursuant to a support order; or
27 (b) A public agency of this or any other state which has the right to receive current or
28 accrued support payments or provides support enforcement services pursuant to this chapter;

29 (10) ~~] "Obligor"~~, a person who owes a duty of support;

30 ~~I~~(11) ~~"Order suspending a license"~~, an order issued by a court or the director to suspend
31 a license. The order shall contain the name of the obligor, date of birth of the obligor, the type
32 of license and the Social Security number of the obligor;

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

37 ~~I~~(13) ~~] (8) "Support order"~~, an order providing a determinable amount for temporary or
38 final periodic payment of support. Such order may include payment of a determinable amount
39 of insurance, medical or other expenses of the child issued by:

40 (a) A court of this state;

41 (b) A court or administrative agency of competent jurisdiction of another state, an Indian
42 tribe, or a foreign country; or

43 (c) The director of the division.

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

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

7 or two thousand five hundred dollars, whichever is less[; as of the date of service of a notice of
8 intent to suspend such license]; or

9 (2) When the obligor or any other person, after receiving appropriate notice, fails to
10 comply with a subpoena of a court or the director concerning actions relating to the
11 establishment of paternity, or to the establishment, modification or enforcement of support
12 orders, or order of the director for genetic testing.

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

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

21 (1) Pays the entire arrearage stated in the notice;
22 (2) Enters into and complies with a payment plan approved by the court or the division;
23 or

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

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

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

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

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

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

6 2. Entry of an order terminating [suspension of a license] **community service** shall not
7 prevent a court [or the director] from issuing a new order [suspending the license] **requiring**
8 **community service** of the same obligor in the event of another arrearage.

454.1031. All penalties that apply to an obligor in [sections 454.1000 to 454.1029]
2 **454.1003** shall also apply to any person who has, without good cause as determined by a court
3 with jurisdiction, denied or interfered with any order for visitation or custody for two or more
4 consecutive periods. Any such penalties shall be imposed by a court with jurisdiction, and may
5 be modified or vacated by the court for good cause shown, and the division shall have no
6 jurisdiction over such matters.

[454.1005. 1. To show cause why suspension of a license may not be appropriate, the obligor shall request a hearing from the court or division that issued the notice of intent to suspend the license. The request shall be made 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 [454.1008. 1. Upon receipt of an order suspending a license, a licensing
2 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 [454.1015. 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.]
4

2 [454.1018. The division shall promulgate rules necessary for the
3 implementation and administration of sections 454.1000 to 454.1025. No rule
4 or portion of a rule promulgated pursuant to the authority of this section shall
5 become effective unless it is promulgated pursuant to section 536.024.]
5

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

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

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

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

2 [454.1027. Notwithstanding any provision of sections 454.1000 to
3 454.1027 to the contrary, the following procedures shall apply between the family
4 support division and the department of conservation regarding the suspension of
5 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 [454.1029. For obligors that have been making regular child support
2 payments in accordance with an agreement entered into with the family support
3 division, the license shall not be suspended while the obligor honors such
4 agreement.]

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