

SENATE BILL NO. 35

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAY.

0364S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 454.1005, RSMo, and to enact in lieu thereof one new section relating to child support enforcement.

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

Section A. Section 454.1005, RSMo, is repealed and one
2 new section enacted in lieu thereof, to be known as section
3 454.1005, to read as follows:

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

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

13 3. Upon timely receipt of a request for hearing from
14 an obligor, the court or director shall schedule a hearing
15 **that complies with due process** to determine if suspension of
16 the obligor's license is appropriate **considering all**
17 **relevant factors, including those factors listed in**
18 **subsection 4 of this section.** The court or director shall

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 stay suspension of the license pending the outcome of the
20 hearing.

21 4. [If the action involves an arrearage, the only
22 issues that may be determined in a hearing pursuant to this
23 section are] **In determining whether the license suspension is**
24 **appropriate under the circumstances, the court or director**
25 **shall consider and issue written findings of fact and**
26 **conclusions of law within thirty days following the hearing**
27 **regarding the following:**

28 (1) The identity of the obligor;
29 (2) Whether the arrearage is in an amount greater than
30 or equal to three months of support payments or two thousand
31 five hundred dollars, whichever is less, by the date of
32 service of a notice of intent to suspend; [and]

33 (3) Whether the obligor has entered a payment plan.
34 If the action involves a failure to comply with a subpoena
35 or order, the only issues that may be determined are the
36 identity of the obligor and whether the obligor has complied
37 with the subpoena or order;

38 (4) **Whether the obligor had the ability to make the**
39 **payments that are in arrearage;**

40 (5) **Whether the obligor has the current ability to**
41 **make the payments;**

42 (6) **The reasons the obligor needs the license,**
43 **including, but not limited to:**

44 (a) **Transportation of family members to and from work,**
45 **school, or medical treatment;**

46 (b) **Transportation of the obligor or family members to**
47 **extra curricular activities; or**

48 (c) **A requirement for employment;**

49 (7) **Whether the obligor is unemployed or underemployed;**

50 (8) **Whether the obligor is actively seeking employment;**

51 (9) Whether the obligor has engaged in job search and
52 job readiness assistance, including utilization of the state
53 employment database website;

54 (10) Whether the obligor has a physical or mental
55 impairment affecting his or her capacity to work; and

56 (11) Any other relevant factors that affect the
57 obligor's ability to make the child support payments.

58 5. If the court or director, after the hearing,
59 determines that the obligor has failed to comply with the
60 child support payment obligation and an arrearage exists in
61 excess of two thousand five hundred dollars for good cause,
62 then the court or director shall not issue an order
63 suspending the obligor's license and ordering the obligor to
64 refrain from engaging in the licensed activity or, if an
65 order is in place, shall stay such order. Good cause may
66 include loss of employment, excluding voluntarily quitting
67 or a dismissal due to poor job performance or failure to
68 meet a condition of employment; catastrophic illness or
69 accident of the obligor or a family member; severe inclement
70 weather, including a natural disaster; or the obligor
71 experiences a family emergency or other life-changing event,
72 including divorce or domestic violence.

73 6. If the court or director, after hearing, determines
74 that the obligor has failed, **without good cause**, to comply
75 with any of the requirements in subsection 4 of this
76 section, the court or director shall issue an order
77 suspending the obligor's license and ordering the obligor to
78 refrain from engaging in the licensed activity.

79 [6.]7. The court or division shall send a copy of the
80 order suspending a license to the licensing authority and
81 the obligor by certified mail.

82 [7.]8. The determination of the director, after a
83 hearing pursuant to this section, shall be a final agency
84 decision and shall be subject to judicial review pursuant to
85 chapter 536. Administrative hearings held pursuant to this
86 section shall be conducted by hearing officers appointed by
87 the director of the department pursuant to subsection 1 of
88 section 454.475.

89 [8.]9. A determination made by the court or division
90 pursuant to this section is independent of any proceeding of
91 the licensing authority to suspend, revoke, deny, terminate
92 or renew a license.

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