

2018 -- S 2601

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO DOMESTIC RELATIONS -- FULL ENFORCEMENT OF SUPPORT
OBLIGATIONS

Introduced By: Senators Quezada, Calkin, Crowley, Metts, and Jabour

Date Introduced: March 01, 2018

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 15-11.1-2, 15-11.1-3, 15-11.1-4, 15-11.1-6 and 15-11.1-7 of the
2 General Laws in Chapter 15-11.1 entitled "Full Enforcement of Support Obligations" are hereby
3 amended to read as follows:

4 **15-11.1-2. Definitions.**

5 For the purposes of this chapter:

6 (1) "Administrator" means the tax administrator for the department of administration,
7 division of taxation or his or her designee.

8 (2) "Board" means any bureau, board, or commission or other licensor that is affiliated
9 with or is a part of the department of business regulation, and any other state agency,
10 municipality, or licensor that issues a license authorizing a person to engage in a recreational
11 activity, in a business, occupation, profession, industry, or authorizes a person to operate a motor
12 vehicle.

13 (3) "Compliance with a court order of support" means that the support obligor has
14 accrued no more than ~~ninety (90)~~ sixty (60) days worth of current support no more than ~~ninety~~
15 ~~(90)~~ sixty (60) days worth of periodic payments due pursuant to a written agreement with the
16 department or as set forth in a court order and/or has obtained or maintained health insurance
17 coverage if required by a court order of support.

18 (4) "CSE system" means the Rhode Island family court/department of administration,

1 division of taxation, child support enforcement system, which system maintains the official
2 record of support orders and arrearages of all support orders entered upon it in accordance with
3 applicable administrative orders issued by the Rhode Island family court.

4 (5) "Court order of support" means any judgment or order for the support of dependent
5 children now or subsequently recorded and maintained on the child support enforcement (CSE)
6 system which has been issued by any court of the state or another state, including an order in a
7 final decree of divorce or any judgment or order issued in accordance with an administrative
8 procedure established by state law that affords substantial due process and is subject to judicial
9 review.

10 (6) "Department" means the department of administration, division of taxation.

11 (7) "Hardship exception to driver's license suspension" means a conditional suspension of
12 a driver's license by order of a family court judge, after a hearing, that the court finds a limited
13 suspension is justified and in the best interest of the child. A conditional suspension with a
14 hardship exception allows a licensee up to twelve (12) hours of driving privileges per day for the
15 exclusive purpose of driving to and from employment, job training, schooling or medical
16 appointments for the licensee or the minor child. Any conditional driving privileges with a
17 hardship exception shall be specifically detailed by order of the family court, after proof of
18 student/employment status and hours of employment/schooling by sworn testimony or affidavit.

19 ~~(8)~~(8) "License" means any of the following: a license to operate a motor vehicle, a motor
20 vehicle registration, a license, certification, registration, permit, approval, or other similar
21 document evidencing admission to or granting authority to engage in a profession, occupation,
22 business, industry, or recreational activity.

23 ~~(8)~~(9) "Licensee" means any individual holding any of the following: a license to operate
24 a motor vehicle, motor vehicle registration, a license, certification, registration, permit, approval,
25 or other similar document evidencing admission to or granting authority to engage in a
26 profession, occupation, business, industry, or recreational activity.

27 ~~(9)~~(10) "Obligor" means any person required to make payments under the terms of a
28 court order of support.

29 [See § 12-1-15 of the General Laws.]

30 **15-11.1-3. Notice.**

31 (a) The department ~~may~~ shall serve notice upon a support obligor who is not in
32 compliance with a court order of support that informs the obligor of the department's intention to
33 submit the obligor's name to any appropriate board, state agency, or department as a licensee who
34 is not in compliance with a court order of support.

1 (b) The notice shall include the address and telephone number of the department's support
2 enforcement office that issues the notice and a statement of the need to obtain a release from that
3 office as provided in § 15-11.1-7. The department shall attach a copy or facsimile of the obligor's
4 court order of support to the notice. Service of the notice must be made by first class mail. The
5 notice must inform the obligor that:

6 (1) The obligor may request a family court hearing to contest the issue of compliance or
7 to request a hardship exception to a driver's license suspension;

8 (2) A request for a hearing must be made in writing and must be received by the
9 department within ~~thirty (30)~~ fifteen (15) days of the date of the notice;

10 (3) If the obligor requests a hearing within ~~thirty (30)~~ fifteen (15) days of the date of the
11 notice, the department shall stay action to certify the obligor to any board for noncompliance with
12 a court order of support pending a decision after a hearing;

13 (4) If the obligor does not request a hearing within ~~thirty (30)~~ fifteen (15) days of the date
14 of the notice and is not in compliance with a court order of support, the department shall certify
15 the obligor to the appropriate board, state agency, or department for noncompliance with a court
16 order of support;

17 (5) If the department certifies the obligor to a board for noncompliance with a court order
18 of support, the board, state agency, or department shall suspend the obligor's license and refuse to
19 issue or reissue a license subject to any hardship exceptions ordered by the family court until the
20 obligor provides the board with a release from the department that states the obligor is in
21 compliance with the obligor's support order. A suspension by an agency or a refusal by an agency
22 to reissue, renew, or otherwise extend the license or certificate of authority shall be deemed a
23 final determination;

24 (6) If the obligor files a motion to modify support with the family court and duly serves
25 the department with notice of the motion to modify, the department shall stay action to certify the
26 obligor to any board for noncompliance with a court order of support; and

27 (7) The obligor may restore compliance with a court order of support by:

28 (i) Paying current support in full; and

29 (ii) Paying all past due support or, if unable to pay all past due support and a periodic
30 payment for past due support has not been ordered by the court, by making a lump sum payment
31 of at least fifty percent (50%) of the total amount of past due support and by agreeing to make
32 future periodic payments in accordance with a written payment agreement with the department
33 which agreement shall then be filed with the family court; and/or

34 (iii) Meeting the obligor's health insurance obligation.

1 [See § 12-1-15 of the General Laws.]

2 **15-11.1-4. Family court compliance hearing.**

3 (a) An obligor may request a hearing before a magistrate of the family court upon receipt
4 of service of the notice described in § 15-11.1-3. The request for a hearing must be made in
5 writing and must be received by the department within ~~thirty (30)~~ fifteen (15) days of the date of
6 the notice. The department shall promptly file the obligor's written request for a hearing with the
7 clerk of the family court or his or her designee; the clerk shall then assign the matter for a hearing
8 before a magistrate of the family court.

9 (b) The department shall notify the obligor in writing of the date, time, and place of the
10 hearing assigned by the clerk. Service of the hearing notice must be made by first class mail.

11 (c) The issues that may be determined at the hearing are limited to:

12 (1) Whether ~~whether~~ the obligor is required to pay child support under a court or
13 administrative order and whether the obligor is in compliance with a court order of support; and

14 (2) Whether conditions exist which would justify the family court in granting a hardship
15 exception to a driver's license suspension pursuant to §15-11.1-2.

16 (d) Nothing in this section shall prohibit the obligor from filing other appropriate motions
17 for relief, including but not limited to a motion to modify a support order, with the family court.

18 [See § 12-1-15 of the General Laws.]

19 **15-11.1-6. Certification of noncompliance.**

20 (a) The department may certify in writing to any appropriate board that a support obligor
21 is not in compliance with a court order of support if:

22 (1) The obligor does not timely request a hearing upon service of a notice issued under §
23 15-11.1-3 and is not in compliance with a court order of support ~~thirty-one (31)~~ sixteen (16) days
24 after service of the notice or mailing of the notice;

25 (2) The family court issues a decision or order after a hearing that finds the obligor is not
26 in compliance with a court order of support, and the obligor has not appealed the decision within
27 any applicable appeal period provided by law for appeals of a decision or order of a magistrate of
28 the family court; or

29 (3) After a decision or order of the family court has been appealed, a decision or order of
30 the Rhode Island supreme court which determines or affirms that the obligor is not in compliance
31 with a court order of support.

32 (b) The department's certification shall include a copy of the decision or order of the
33 court including the granting of any hardship exception to a driver's license suspension, where
34 applicable. The department shall send by first class mail a copy of any certification of

1 noncompliance filed with a board to the obligor at the obligor's most recent address of record.

2 [See § 12-1-15 of the General Laws.]

3 **15-11.1-7. Suspension by board -- Notice from board.**

4 (a) Upon receipt of the certification of noncompliance from the department issued in
5 accordance with § 15-11.1-6, a board shall suspend the obligor's license and refuse to issue or
6 reissue a license until the obligor provides the board with a release from the department that states
7 the obligor is in compliance with the obligor's support order. Should the certification of
8 noncompliance provide for a hardship exception to a driver's license suspension pursuant to this
9 chapter, the board's suspension shall comply with the order of the family court as to a limited
10 suspension for employment or educational purposes. When an obligor who is served notice under
11 § 15-11.1-3 subsequently complies with the court order of support, the department shall within
12 five (5) business days after compliance provide the obligor with written confirmation and a
13 release that the obligor is in compliance with the order. A suspension by a board or a refusal by a
14 board to reissue, renew, or otherwise extend the license or certificate of authority shall be deemed
15 a final determination for the purposes of chapter 35 of title 42.

16 (b) A board shall notify an obligor certified by the department under § 15-11.1-6, without
17 undue delay, that the obligor's application for the issuance or renewal of a license may not be
18 granted or that the obligor's license has been suspended because the obligor's name has been
19 certified by the department as a support obligor who is not in compliance with a court order of
20 support. The board shall notify an obligor whether any specific conditional privileges have been
21 allowed by the family court pursuant to a hardship exception to a driver's license suspension
22 pursuant to this chapter.

23 (c) Within five (5) business days of receiving written confirmation that the obligor is in
24 compliance with the court order of support, the board shall reinstate, reissue, renew or otherwise
25 extend the obligor's license or certificate of authority.

26 [See § 12-1-15 of the General Laws.]

27 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO DOMESTIC RELATIONS -- FULL ENFORCEMENT OF SUPPORT
OBLIGATIONS

1 This act would reduce the number of days of child support arrearage from ninety (90)
2 days to sixty (60) days for an obligor to be deemed not in compliance with a court order of child
3 support and be subject to license suspension.

4 This act would also allow the family court to grant a conditional driver's license
5 suspension to allow an obligor to drive to and from employment. This act would also shorten
6 certain notice requirements and would require a lump sum payment of fifty percent (50%) of past
7 due child support and a payment plan in order to restore compliance with a court order of support.

8 This act would take effect upon passage.

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