

FIRST REGULAR SESSION

SENATE BILL NO. 317

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAY.

1064S.01I

ADRIANE D. CROUSE, 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Section A. Section 454.1005, RSMo, is repealed and one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. **Due process requires that**, upon timely receipt of a
14 request for hearing from an obligor, the court or director
15 shall schedule a hearing **that complies with due process** to
16 determine if suspension of the obligor's license is
17 appropriate **considering all relevant factors**. The court or

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

18 director shall stay suspension of the license pending the
19 outcome of the hearing.

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

27 (1) The identity of the obligor;

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

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

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

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

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

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

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

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

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

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

(9) Whether the obligor has been offered job assistance through the state;

(10) Whether the obligor is disabled and his or her capacity to work; and

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

5. If the court or director, after the hearing, determines that the obligor has failed to comply with the child support payment obligation and an arrearage exists in excess of two thousand five hundred dollars for good cause, then the court or director shall not issue an order suspending the obligor's license and ordering the obligor to refrain from engaging in the licensed activity or, if an order is in place, shall stay such order.

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

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

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

[8.] 9. A determination made by the court or division pursuant to this section is independent of any proceeding of

82 the licensing authority to suspend, revoke, deny, terminate
83 or renew a license.

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