

SB 1126

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THE STATE SENATE
Monday, February 23, 2009

Senate Bill No. 1126
As Amended

SENATE BILL NO. 1126 - By: Jolley of the Senate and Nelson of the House.

[marriage and family - licenses - formula - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 43 O.S. 2001, Section 139.1, as amended by Section 1, Chapter 124, O.S.L. 2004 (43 O.S. Supp. 2008, Section 139.1), is amended to read as follows:

Section 139.1 A. As used in this section and Section 6-201.1 of Title 47 of the Oklahoma Statutes:

1. "Licensing board" means any bureau, department, division, board, agency or commission of this state or of a municipality in this state that issues a license;

2. "Noncompliance with an order for support" means that the obligor has failed to make child support payments required by a child support order in an amount equal to the child support payable for at least ninety (90) days or has failed to make full payments pursuant to a court-ordered payment plan for at least ninety (90) days or has failed to obtain or maintain health insurance coverage as required by an order for support for at least ninety (90) days or

1 has failed, after receiving appropriate notice to comply with
2 subpoenas or orders relating to paternity or child support
3 proceedings or has failed to comply with an order to submit to
4 genetic testing to determine paternity;

5 3. "Order for support" means any judgment or order for the
6 support of dependent children or an order to submit to genetic
7 testing to determine paternity issued by any court of this state or
8 other state or any judgment or order issued in accordance with an
9 administrative procedure established by state law that affords
10 substantial due process and is subject to judicial review;

11 4. "Department" means the Department of Human Services;

12 5. "License" means a license, certificate, registration,
13 permit, approval or other similar document issued by a licensing
14 board granting to an individual a right or privilege to engage in a
15 profession, occupation, or business, or any recreational license or
16 permit including, but not limited to, a hunting and fishing license
17 or other authorization issued pursuant to the Oklahoma Wildlife
18 Conservation Code, certificates of title for vessels and motors and
19 other licenses or registrations issued pursuant to the Oklahoma
20 Vessel and Motor Registration Act, or a driver license or other
21 permit issued pursuant to Title 47 of the Oklahoma Statutes;

22 6. "Obligor" means the person who is required to make payments
23 or comply with other provisions of an order for support;

- 1 7. "Person entitled" means:
- 2 a. a person to whom a support debt or support obligation
- 3 is owed,
- 4 b. the Department of Human Services or a public agency of
- 5 another state that has the right to receive current or
- 6 accrued support payments or that is providing support
- 7 enforcement services, or
- 8 c. a person designated in a support order or as otherwise
- 9 specified by the court; and

10 8. "Payment plan" includes, but is not limited to, a plan

11 approved by the court that provides sufficient security to ensure

12 compliance with a support order and/or that incorporates voluntary

13 or involuntary income assignment or a similar plan for periodic

14 payment on an arrearage and, if applicable, current and future

15 support.

16 B. 1. Except as otherwise provided by this subsection, the

17 district courts of this state are hereby authorized to order the

18 revocation, suspension, nonissuance or nonrenewal of a license or

19 the placement of the obligor on probation who is in noncompliance

20 with an order for support. When an obligor pays a ninety-day

21 arrearage in an amount less than what is owed, the amount remaining

22 to be paid shall be divided by the amount originally owed and such

1 quotient shall be multiplied by ninety (90). That product shall be
2 the number of days the obligor remains in arrearage.

3 2. If the obligor is a licensed attorney, the court may report
4 the matter to the State Bar Association to revoke or suspend the
5 professional license of the obligor or other appropriate action in
6 accordance with the rules of professional conduct and disciplinary
7 proceedings.

8 3. Pursuant to Section 6-201.1 of Title 47 of the Oklahoma
9 Statutes, the district or administrative courts of this state are
10 hereby authorized to order the revocation or suspension of a driver
11 license of an obligor who is in noncompliance with an order of
12 support.

13 4. The remedy under this section is in addition to any other
14 enforcement remedy available to the court.

15 C. 1. At any hearing involving the support of a child, if the
16 district court finds evidence presented at the hearing that an
17 obligor is in noncompliance with an order for support and the
18 obligor is licensed by any licensing board, the court, in addition
19 to any other enforcement action available, may suspend or revoke the
20 license of the obligor who is in noncompliance with the order of
21 support or place the obligor on probation.

22 2. If the obligor enters into a court-ordered payment plan to
23 repay past due support and provides proof to the court that the

1 obligor is complying with all other provisions of the order for
2 support, the court may place the obligor on probation and allow the
3 obligor to practice or continue to practice the obligor's
4 profession, occupation or business, or to operate a motor vehicle.
5 Probation shall be conditioned upon full compliance with the order.
6 If the court grants probation, the probationary period shall not
7 exceed three (3) years, and the terms of probation shall provide for
8 automatic suspension or revocation of the license if the obligor
9 does not fully comply with the order. If the court orders
10 probation, the appropriate licensing board shall not be notified and
11 no action is required of that board.

12 D. When all support due is paid in full and the obligor has
13 complied with all other provisions of the order for support, the
14 obligor may file a motion with the court for reinstatement of the
15 obligor's licenses and the motion shall be set for hearing. If the
16 court finds the obligor has paid all support due in full and has
17 complied with all other provisions of the order for support, the
18 court shall reinstate the obligor's licenses.

19 E. 1. An obligor may file a motion with the court for
20 reinstatement of the obligor's licenses prior to payment in full of
21 all support due and the motion shall be set for hearing.

22 2. The court may reinstate the obligor's licenses if the
23 obligor has:

- 1 a. paid the current child support and the monthly
2 arrearage payments each month for the current month
3 and two (2) months immediately preceding, or paid an
4 amount equivalent to three (3) months of child support
5 and arrearage payments which satisfies the current
6 child support and monthly arrearage payments for the
7 current month and two (2) months immediately
8 preceding,
- 9 b. disclosed all information regarding health insurance
10 availability and obtained and maintained health
11 insurance coverage required by an order for support,
- 12 c. complied with all subpoenas and orders relating to
13 paternity or child support proceedings,
- 14 d. complied with all orders to submit to genetic testing
15 to determine paternity, and
- 16 e. disclosed all employment and address information.

17 3. If the court terminates the order of suspension, revocation,
18 nonissuance or nonrenewal, it shall place the obligor on probation,
19 conditioned upon the obligor's complying with any payment plan and
20 the provisions of the order for support.

21 4. If the obligor fails to comply with the terms of probation,
22 the court may refuse to reinstate the obligor's licenses and driving
23 privileges unless the obligor makes additional payments in an amount

1 determined by the court to be sufficient to ensure future
2 compliance, and the obligor complies with the other terms set by the
3 court.

4 F. The obligor shall serve on the custodian or the state a copy
5 of the motion for reinstatement of the obligor's licenses and notice
6 of hearing pursuant to Section 2005 of Title 12 of the Oklahoma
7 Statutes, or if there is an address of record, by regular mail to
8 the address of record on file with the central case registry
9 pursuant to Section 112A of this title. When child support services
10 are being provided pursuant to Section 237 of Title 56 of the
11 Oklahoma Statutes, the obligor shall serve a copy of the motion for
12 reinstatement of the obligor's licenses on the Department of Human
13 Services.

14 G. If the court orders termination of the order of suspension
15 or revocation, the obligor shall send a copy of the order
16 reinstating the obligor's licenses to the licensing board and the
17 custodian and to the Department of Human Services when child support
18 services are being provided pursuant to Section 237 of Title 56 of
19 the Oklahoma Statutes.

20 H. Entry of this order does not limit the ability of the court
21 to issue a new order requiring the licensing board to revoke or
22 suspend the license of the same obligor in the event of another
23 delinquency or failure to comply.

1 I. Upon receipt of a court order to suspend or revoke the
2 license of an obligor, the licensing board shall comply with the
3 order by:

- 4 1. Determining if the licensing board has issued a license to
5 the individual whose name appears on the order for support;
- 6 2. Notifying the obligor of the suspension or revocation;
- 7 3. Demanding surrender of the license, if required;
- 8 4. Entering the suspension or revocation of the license on the
9 appropriate records; and
- 10 5. Reporting the suspension or revocation of the license as
11 appropriate.

12 J. Upon receipt of a court order to not issue or not renew the
13 license of an obligor, the licensing board shall implement by:

- 14 1. Determining if the licensing board has received an
15 application for issuance or renewal of a license from the individual
16 whose name appears on the order of support;
- 17 2. Notifying the obligor of the nonissuance or nonrenewal; and
- 18 3. Entering the nonissuance or nonrenewal of the license as
19 appropriate.

20 K. An order, issued by the court, directing the licensing board
21 to suspend, revoke, not issue or not renew the license of the
22 obligor shall be processed and implemented by the licensing board
23 without any additional review or hearing and shall continue until

1 the court or appellate court advises the licensing board by order
2 that the suspension, revocation, nonissuance or nonrenewal is
3 terminated.

4 L. The licensing board has no jurisdiction to modify, remand,
5 reverse, vacate, or stay the order of the court for the suspension,
6 revocation, nonissuance or nonrenewal of a license.

7 M. In the event of suspension, revocation, nonissuance or
8 nonrenewal of a license, any funds paid by the obligor to the
9 licensing board for costs related to issuance, renewal, or
10 maintenance of a license shall not be refunded to the obligor.

11 N. A licensing board may charge the obligor a fee to cover the
12 administrative costs incurred by the licensing board to administer
13 the provisions of this section. Fees collected pursuant to this
14 section by a licensing board which has an agency revolving fund
15 shall be deposited in the agency revolving fund for the use by the
16 licensing board to pay the costs of administering this section.
17 Otherwise, the administrative costs shall be deposited in the
18 General Revenue Fund of the state.

19 O. Each licensing board shall promulgate rules necessary for
20 the implementation and administration of this section.

21 P. The licensing board is exempt from liability to the obligor
22 for activities conducted in compliance with Section 139 et seq. of
23 this title.

1 Q. The provisions of this section may be used to revoke or
2 suspend the licenses and driving privileges of the custodian of a
3 child who fails to comply with an order to submit to genetic testing
4 to determine paternity.

5 R. A final order entered pursuant to this section may be
6 appealed to the Supreme Court of Oklahoma pursuant to Section 990A
7 of Title 12 of the Oklahoma Statutes.

8 SECTION 2. This act shall become effective November 1, 2009.

9 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-17-09 - DO
10 PASS, As Amended and Coauthored.