

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

HOUSE BILL 1797

4
5 By: Representative Lamoureux
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For An Act To Be Entitled

9 AN ACT TO AUTHORIZE THE OFFICE OF CHILD SUPPORT
10 ENFORCEMENT TO INTERCEPT CLAIMS PAID BY INSURANCE
11 COMPANIES AND ATTORNEYS TO CLIENTS OWING PAST-DUE
12 CHILD SUPPORT; AND FOR OTHER PURPOSES.
13

Subtitle

14 AN ACT TO AUTHORIZE THE OFFICE OF CHILD
15 SUPPORT ENFORCEMENT TO INTERCEPT CLAIMS
16 PAID BY INSURANCE COMPANIES AND
17 ATTORNEYS TO CLIENTS OWING PAST-DUE
18 CHILD SUPPORT.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code § 9-14-208 is amended to read as follows:

25 9-14-208. Office of Child Support Enforcement - Powers to obtain
26 information on noncustodial parent - Penalty - Immunity.

27 (a) As used in this section, unless the context otherwise requires:

28 (1) "Noncustodial parent" means a natural or adoptive parent,
29 including a putative father, who does not reside with his or her dependent
30 child and against whom the Office of Child Support Enforcement of the Revenue
31 Division of the Department of Finance and Administration is enforcing or
32 seeking to enforce a support obligation pursuant to a plan described in Title
33 IV-D of the Social Security Act;

34 (2) "Business" means any corporation, partnership, cable
35 television company, association, individual, utility company that is
36 organized privately, as a cooperative, or as a quasi-public entity, any



1 attorney at law, any insurance company when acting as other than a financial
2 entity as defined in subdivision (a)(4) of this section, and labor or other
3 organization maintaining an office, doing business, or having a registered
4 agent in the State of Arkansas;

5 (3) "Office of Child Support Enforcement" means the Office of
6 Child Support Enforcement of the Revenue Division of the Department of
7 Finance and Administration or a local child support enforcement unit
8 contracting under § 9-14-207 to establish and enforce support obligations;

9 (4) "Financial entity" means any bank, trust company, savings
10 and loan association, credit union, insurance company, or any corporation,
11 association, partnership, or individual receiving or accepting money or its
12 equivalent on deposit as a business in the State of Arkansas;

13 (5) "Information" means, but is not necessarily limited to, the
14 following:

- 15 (A) The full name of the noncustodial parent;
- 16 (B) The social security number of the noncustodial parent;
- 17 (C) The date of birth of the noncustodial parent;
- 18 (D) The last known mailing and residential address of the
19 noncustodial parent;
- 20 (E) The amount of wages, salaries, earnings, or
21 commissions earned by or paid to the noncustodial parent;
- 22 (F) The number of dependents declared by the noncustodial
23 parent on state and federal tax information and reporting forms;
- 24 (G) The name of the company, policy numbers, and dependent
25 coverage for any medical insurance carried by and on behalf of the
26 noncustodial parent;
- 27 (H) The name of the company, policy numbers, and the cash
28 values, if any, of any life insurance policies or annuity contracts which are
29 carried by or on behalf of or owned by the noncustodial parent; and
- 30 (I) Any retirement benefits, pension plans, or stock
31 purchase plans maintained on behalf of or owned by the noncustodial parent
32 and the values thereof, employee contributions thereto, and the extent to
33 which each benefit or plan is vested; ~~and~~

34 (6) "Past-due child support" means the total amount of unpaid
35 child support determined by a court order; and

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1 ~~(6)~~(7) "State or local government agency" means any department,
 2 board, bureau, commission, office, or other agency of this state or any local
 3 unit of government of this state.

4 (b)(1) For the purpose of locating and determining resources of
 5 noncustodial parents, the Office of Child Support Enforcement may request and
 6 receive information from the Federal Parent Locator Service, from available
 7 records in other states, territories, and the District of Columbia, from the
 8 records of all state agencies, and from businesses and financial entities.

9 (2) The Administrator of the Office of Child Support Enforcement
 10 may enter into cooperative agreements with other state agencies, businesses,
 11 or financial entities to provide direct on-line access to data information
 12 terminals, computers, or other electronic information systems.

13 (3) State and local government agencies, businesses, and
 14 financial entities shall provide information, if known or chronicled in their
 15 business records, notwithstanding any other provision of law making the
 16 information confidential.

17 (4) In addition, the Office of Child Support Enforcement may,
 18 pursuant to an agreement with the Secretary of the United States Department
 19 of Health and Human Services, or his or her designee, request and receive
 20 from the Federal Parent Locator Service information authorized under 42
 21 U.S.C. § 653, for the purpose of determining the whereabouts of any parent or
 22 child. This information may be requested and received when it is to be used
 23 to locate the parent or child for the purpose of enforcing any state or
 24 federal law with respect to the unlawful taking or restraining of a child or
 25 for the purpose of making or enforcing a child custody determination.

26 (c) Any business or financial entity which has received a request from
 27 the Office of Child Support Enforcement as provided by subsection (b) of this
 28 section shall further cooperate with the Office of Child Support Enforcement
 29 in discovering, retrieving, and transmitting information contained in the
 30 business records that would be useful in locating absent parents or in
 31 establishing or enforcing child support orders on absent parents, and shall
 32 provide the requested information, or a statement that any or all of the
 33 requested information is not known or available to the business or financial
 34 entity. This shall be done within thirty (30) days of receipt of the request
 35 or the business or financial entity shall be liable for civil penalties of up
 36 to one hundred dollars (\$100) for each day after the thirty-day period in

1 which it fails to provide the information so requested.

2 (d) Any business or financial entity, or any officer, agent, or
 3 employee of such entity, participating in good faith and providing
 4 information requested under this section, shall be immune from liability and
 5 suit for damages that might otherwise result from the release of the
 6 information to the Office of Child Support Enforcement.

7 (e)(1) Each financial entity, as defined herein, shall cooperate with
 8 the Office of Child Support Enforcement to develop, implement, and operate an
 9 electronic automated data match system, using automated data exchanges to the
 10 maximum extent feasible, in which each financial entity shall provide to the
 11 Office of Child Support Enforcement per calendar quarter the name, record
 12 address, social security number or other taxpayer identification number, and
 13 other identifying information for each noncustodial parent who maintains an
 14 account at the financial entity and who owes past-due child support, as
 15 identified by the Office of Child Support Enforcement by name and social
 16 security number or other taxpayer identification number. For purposes of this
 17 subsection, the term "account" means a demand deposit account, checking or
 18 negotiable withdrawal order account, savings account, time deposit account,
 19 or money market mutual fund account. The Office of Child Support Enforcement
 20 is authorized to pay a reasonable fee to a financial entity for conducting an
 21 automated data match, not to exceed the actual costs incurred by the
 22 financial entity.

23 (2)(A)(i) Each insurance company authorized to issue policies of
 24 insurance in the State of Arkansas when acting as other than a financial
 25 entity as defined under subdivision (a)(4) of this section shall cooperate
 26 with the Office of Child Support Enforcement using automated data exchanges
 27 to the maximum extent feasible to determine if past-due child support is owed
 28 by individuals for whom the insurance company holds periodic, lump-sum, or
 29 nonrecurring payments.

30 (ii) Each attorney practicing law in the State of
 31 Arkansas shall cooperate with the Office of Child Support Enforcement using
 32 automated data exchanges to the maximum extent feasible to determine if past-
 33 due child support is owed by individuals for whom the attorney holds
 34 periodic, lump-sum, or nonrecurring payments.

35 (B)(i) No less than fifteen (15) days prior to making any
 36 lump-sum or nonrecurring payment of at least two hundred fifty dollars (\$250)

1 to a individual under a contract of insurance, each insurance company shall
2 provide to the Office of Child Support Enforcement the name, record address,
3 social security number or other taxpayer identification number, date of
4 birth, phone number, and other identifying information to determine if that
5 individual owes past-due child support.

6 (ii) No less than fifteen (15) days prior to making
7 any lump-sum or nonrecurring payment or disbursement of at least two hundred
8 fifty dollars (\$250) to a client from money received on behalf of that
9 client, an attorney shall provide to the Office of Child Support Enforcement
10 the name, record address, social security number or other taxpayer
11 identification number, date of birth, phone number, and other identifying
12 information to determine if that client owes past-due child support.

13 (C) If an automated data exchange is not feasible for the
14 insurance company or the attorney, the required identifying information shall
15 be submitted in writing in sufficient time to be received by the Office of
16 Child Support Enforcement no less than fifteen (15) days prior to making any
17 payment.

18 (3)(A) If prior to the expiration of the fifteen-day period
19 described in subdivision (e)(2)(B) of this section the attorney or insurance
20 company receives notice either through automated verification or in writing
21 from the Office of Child Support Enforcement of any past-due child support,
22 the attorney or insurance company shall withhold an amount equal to the past-
23 due child support from the payment or disbursement to the individual and
24 remit that amount as directed to the Office of Child Support Enforcement.

25 (B) If the attorney or insurance company receives no
26 notice from the Office of Child Support Enforcement prior to the expiration
27 of the fifteen-day period, the attorney or insurance company may disburse the
28 funds.

29 (4)(A) Any amount owed to the Office of Child Support
30 Enforcement may only be withheld from the portion of any lump-sum or
31 nonrecurring payment owed to the person liable for past-due child support and
32 the amount is subject to payment of any fees and costs owed to the attorney
33 or insurance company and any liens or subrogation interests related to the
34 claim or judgment.

35 (B) In no event is the Office of Child Support Enforcement
36 entitled to receive an amount that is more than the portion of the recovery

1 owed to the person liable for past-due child support.

2 (f) Pursuant to subsection (e) of this section, each financial entity
 3 shall, in response to a notice of lien or levy, encumber or surrender assets
 4 held by such financial entity on behalf of any noncustodial parent who is
 5 subject to a child support lien pursuant to judgment or by operation of law.

6 (g) In cases in which there is overdue child support and in an effort
 7 to seize assets to satisfy any current support obligation and the arrearage,
 8 the Office of Child Support Enforcement is authorized to:

9 (1) Intercept or seize periodic or lump-sum payments from:

10 (A) A state or local agency, including unemployment
 11 compensation, workers' compensation, or other benefits; and

12 (B) Judgments, settlements, prizes, and lotteries;

13 (2) Attach and seize assets of the obligated parent held in
 14 financial institutions;

15 (3) Attach public and private retirement funds, including any
 16 union retirement fund and railroad retirement; and

17 (4) Impose liens in accordance with subsection (f) of this
 18 section and, in appropriate cases, to force sale of property and distribution
 19 of proceeds.

20 (h)(1) Such withholdings, intercepts, and seizures as set out in
 21 subsection (g) of this section may be initiated by the Office of Child
 22 Support Enforcement without obtaining a prior order from any court but must
 23 be carried out in full compliance with published administrative procedures,
 24 including due process safeguards, promulgated by the Office of Child Support
 25 Enforcement.

26 (2)(A) The rules and regulations shall require written notice to
 27 each parent and noncustodial parent to whom this section applies:

28 (i) That the withholding, intercept, or seizure has
 29 commenced; and

30 (ii) Of the right to an administrative hearing and
 31 the procedures to follow if the parent or noncustodial parent desires to
 32 contest the withholding, intercept, or seizure on the grounds that the
 33 withholding, intercept, or seizure is improper due to a mistake of fact.

34 (B)(i) The notice to the parent and noncustodial parent
 35 pursuant to subdivision (h)(2)(A) of this section shall include the
 36 information provided to the employer, agency, business, or financial

1 institution under subsection (e) of this section.

2 (ii) Any business or financial entity, or any officer, agent, or
3 employee of such entity, participating in good faith and providing
4 information requested pursuant to subsection (e) of this section or
5 encumbering or surrendering assets pursuant to subsection (f) or (g) of this
6 section, shall be immune from liability and suit for damages that might
7 otherwise result from the release of the information or the encumbering or
8 surrendering the assets to the Office of Child Support Enforcement.

9 (iii) Any business or financial entity, or any officer, agent,
10 or employee of the entity, who after notice by the Office of Child Support
11 Enforcement of the existence of a lien based on past-due child support fails
12 to encumber or surrender the assets up to the full amount of the lien or the
13 full amount otherwise payable to the person liable for past-due child support
14 shall be liable to the Office of Child Support Enforcement for:

15 (a) The full amount of the lien or the full amount otherwise payable
16 to the person liable for past-due child support; and

17 (b) Any actual cost incurred by the Office of Child Support
18 Enforcement caused by the failure to encumber or surrender the assets up to
19 full amount of the lien or the full amount otherwise payable to the person
20 liable for past-due child support.

21 (j) Any information obtained under the provisions of this section
22 shall become a business record of the Office of Child Support Enforcement,
23 subject to the privacy safeguards set out in § 9-14-210(g)-(1).

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