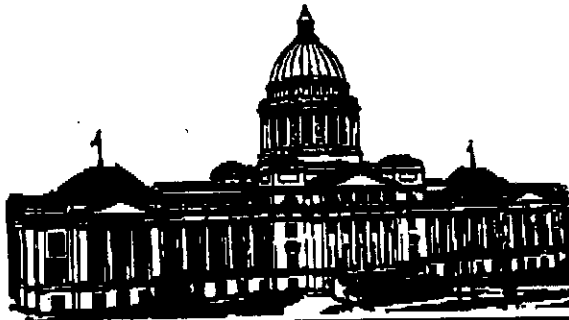


ARKANSAS REGISTER

FILED
AR. REGISTER DIV
Transmittal Sheet
OCT 20 1994



W. J. "BILL" McCUEN
SECRETARY OF STATE
LITTLE ROCK, ARKANSAS

W. J. "Bill" McCuen
Secretary of State
State Capitol Rm. 010
Little Rock, Arkansas 72201-1094

For Office
Use Only:

Effective Date 10/20/94 Code Number 006.25.94--002

Name of Agency Office of Child Support Enforcement

Department Department of Finance & Administration/Division of Revenue

Contact Person Jim Barnhill

Statutory Authority for Promulgating Rules Act 1241 of 1993 ACA 25-15-203

Intended Effective Date			Date
<input checked="" type="checkbox"/>	Emergency	Legal Notice Published	<u>8-28-94</u>
<input type="checkbox"/>	20 Days After Filing	Final Date for Public Comment	<u>9-19-94</u>
<input type="checkbox"/>	Other	Filed With Legislative Council	<u>10-20-94</u>
		Reviewed by Legislative Council	<u>n/a</u>
		Adopted by State Agency	<u>10-20-94</u>

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended.

Judy Jones Jordan
Signature

Administrator
Title

10/20/94
Date

4000
SERIES

FILED
AR. REGISTER DIV
DATE 94 OCT 20 PM 3:01

W. J. "BILL" MCCUEN
SECRETARY OF STATE
LITTLE ROCK, ARKANSAS
BY

SUBJECT

Investigator Responsibilities

**4805
SUSPENSION
OF COMMERCIAL
DRIVER'S
LICENSE**

Act 1241 of 1993 authorizes and establishes procedures for the suspension of a Commercial Driver's License if certain conditions exist on a case.

Quarterly, field staff will receive a printout by social security number of Commercial Driver's License holders for which IV-D has an active case. The IV-D office will review the case for the following conditions:

Condition 1. NCP is delinquent on a court-ordered child support payment in an amount equal to six (6) months obligation or more, or the NCP has an adjudicated arrearage in an amount equal to a six (6) months obligation or more; or

Condition 2. NCP is the subject of an outstanding failure to appear, a body attachment, or bench warrant related to a child support proceeding.

Note: If the NCP has filed Bankruptcy, no action to suspend or revoke the Commercial Driver's License may be taken unless an Order granting relief from the Automatic Stay has been obtained from Bankruptcy Court.

Exceptions:

1) If the NCP was assessed retroactive support, the NCP may not be delinquent in his child support payments. For example, if the NCP is the putative father and the court finds him to be the legal father and invokes the law authorizing the setting of support retroactively, then the NCP is not delinquent because there was never an obligation to pay anything before the court date. Likewise, the "instant debt" will not be considered an adjudicated arrearage for the purpose of this policy. The NCP must fail to pay on a retroactive support order for six (6) months or in a total amount equal to six (6) months obligation before being subject to Commercial Driver's License suspension.

2) The NCP pays the delinquency below an amount equal to six (6) months obligation.

SUBJECT **Investigator Responsibilities**

3) The NCP is presently making child support payments which represent payment on the current support obligation, if any, and payment reducing a child support delinquency of six months or more, either through income withholding or by agreement with OCSE.

4) The NCP enters an Agreed Order or an agreement with OCSE with instructions to pay current support plus an additional specified amount to be applied to the arrearage. The Agreed Order or agreement should contain a provision which stipulates that if the NCP becomes 30 days delinquent on the Agreed Order or agreement, the Commercial Driver's License will be suspended immediately and that the NCP waives the right to an administrative hearing or further notice prior to CDL suspension.

4805.1
INTENT TO
SUSPEND NOTICE

If either Condition 1 or Condition 2 noted above exists and none of the Exceptions apply, an Intent to Suspend Commercial Driver's License Notice (OCSE-1694, the "90 day Notice") will be mailed to the NCP by the responsible field office. Notices should be sent certified mail to the address provided on the printout as reflected on the Commercial Driver's License or to the address provided to the court by the NCP, unless a verified address has been obtained. In the event the Notice by certified mail is rejected or unclaimed, the Notice shall be considered sufficient if sent by regular first class mail. The Notice will inform the NCP that the Commercial Driver's License will be suspended in 90 days and will provide an opportunity to request an Administrative Hearing.

4805.2
INFORMAL
COMPLAINT
RESOLUTION

Following issuance of the 90-day notice (OCSE-1694), a NCP may avoid CDL suspension by contacting the local IV-D office and entering into an Agreed Order or an agreement with OCSE as described in Exception 4 of Section 4805. Agreed Orders and agreements made after issuance of a 90-day notice must include a condition which requires that some payment be made by the NCP before expiration of the 90-day time frame following issuance of the OCSE-1694. In the event the NCP contests the accuracy of the arrearage information or the duration of the delinquency, an appointment must be scheduled with the local IV-D office to resolve the issue. The local IV-D office must attempt to resolve

SUBJECT**Investigator Responsibilities**

the complaint. Issues that can not be resolved by the local IV-D office should be forwarded to Central Office for an Administrative Hearing if the NCP requests.

**4805.3
LEGAL
ISSUES**

An Administrative Hearing can not clear an outstanding failure to appear, body attachment, or bench warrant. These issues must be dealt with by the court. The NCP should be advised that legal action would be required for a determination on any of these issues. So long as the outstanding failure to appear, body attachment, or bench warrant remains, adverse action to suspend the Commercial Driver's License must proceed under this policy.

**4805.4
HEARING
NOTICE
AND
PACKET**

Referrals for Administrative Hearings must contain the following:

- Noncustodial Party's request for a hearing
- Hearing statement completed by local office
- Copies of all child support orders
- Arrears summary
- Copies of any relevant correspondence between the NCP (or representative) and the Office of Child Support Enforcement.

The packet should be routed to the Central Office, Attention: Appeals and Hearings. The Appeals and Hearings Section will notify the NCP of the date, time and location of the hearing. Also, the hearing scheduling notice shall recite that the NCP's failure to appear for the scheduled hearing will be considered a choice to waive the administrative hearing.

**4805.5
SUSPENSION
HEARING**

Administrative Hearings on the suspension of Commercial Drivers Licenses will be conducted in accordance with Section 7000, Rules of Order for Administrative Hearings, and are limited to a determination whether either of the two (2) Conditions under Section 4805 are present and whether any of the four (4) exceptions are satisfied.

Subject **Investigator Responsibilities**

**4805.6
JUDICIAL
REVIEW**

NCP's not satisfied with the decision have the right to judicial review under the Administrative Procedure Act. Within thirty (30) days from the date the NCP receives the Administrative Hearing decision, the NCP must file a petition in the Circuit Court of the county of the NCP's residence or in the Circuit Court of Pulaski County. A certified copy of the complete Administrative Hearing record and transcript will be submitted to the Court by OCSE within 30 days from the date of service on the agency. Judicial reviews are conducted by the Court without a jury.

**4805.7
SUSPENSION
AND
REINSTATEMENTS**

Central Office staff will have access to Driver Control files and will be responsible for keying any suspensions or reinstatements. All suspensions and reinstatements must be submitted in writing to Central Office, Attention: Appeals and Hearings Section. To ensure that the NCP is allowed 90 days from the receipt by mail of the Notice of Intent to Suspend Commercial Driver's License (OCSE-1694), a copy of this Notice must be retained in the case file with the signed certified mail receipt attached, whenever available. NCP's who pay their arrearage below an amount equal to six (6) months obligation must have their Commercial Driver's License reinstated. It is imperative that the license is reinstated by Central Office immediately. If the license has expired, do not return the license to the NCP. In this event the NCP should be advised to contact their local Revenue Office to obtain a new license.

In some instances, NCP's may initiate action on their own accord resulting in a court order eliminating the presence of Condition 1 or 2 listed above. If the NCP takes such action eliminating the threshold condition for Commercial Driver's License suspension prior to the effective date of the intended suspension, the responsible field office must immediately notify the Appeals and Hearings Office to take action to set aside suspension activity on the case and to notify the NCP accordingly.

**4806
BUSINESS
LICENSES
SUSPENSION**

Arkansas Chancery Courts are authorized to revoke or suspend the occupational, professional or business license of Noncustodial Parties who are delinquent on a court ordered child support obligation in an

4000

SERIES

DATE

Subject

Investigator Responsibilities

amount equal to six (6) months obligation or more or who are the subject of an outstanding child support warrant according to Act 1240 of 1993. Retroactive support is not an automatic arrearage.

**4806.1
LEGAL
PROCEEDING**

Cases that meet either of the conditions in OCSE Policy 4806 shall be routed to the responsible field legal office for contempt of court, requesting enforcement and revocation or suspension of the occupational, professional or business license. This is an additional enforcement remedy that may be imposed at the discretion of the Court.

**4806.2
SUSPENSION
PROCESS**


Upon receipt of a court-ordered suspension or revocation, the state agency, licensing board, or professional organization responsible for issuance of an occupational, professional or business license shall note the suspension or revocation on their records and take all necessary steps to implement and enforce the suspension or revocation. The suspension or revocation shall remain in full force and effect for the period of time so noted in the court order or until further order of the court.

**4807
LAW LICENSE
REVIEW**

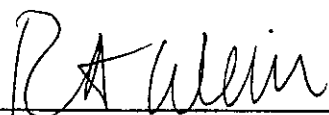
Semiannually, the Clerk of the Arkansas Supreme Court is requested to furnish the Office of Child Support Enforcement with a list of persons that possess an Arkansas Law License. NCP's on the list that meet one of the following conditions will be referred to the Clerk of Supreme Court for review of their license:

1. Six months or more delinquent on payments on a court ordered child support or under an adjudicated arrearage.
2. Subject of an outstanding child support warrant.

APPROVED:


Tim Leathers, Commissioner of Revenue

DATE: 10-17-94


Richard A. Weiss, Acting Director
Department of Finance and Administration

DATE: 10.18.94

OFFICE OF CHILD SUPPORT ENFORCEMENT

State of Arkansas

Division of Revenue Services

Department of Finance & Administration

FILED
AR. REGISTER DIV.
OCT 20 PM 3:01

Notice of Intent to Suspend Commercial Driver's License

WILLIE McCUEN
SECRETARY OF STATE
LITTLE ROCK, ARKANSAS
BY _____

DATE:

TO:

Commercial Driver's License # : _____

Child Support Case Number: _____ SSN: _____

In accordance with Act 1241 of 1993, Ark. Code Ann. § 27-23-125, the Office of Child Support Enforcement can suspend a commercial driver's license of a non-custodial parent who is :

1. Delinquent on a court-ordered child support payment in an amount equal to six (6) months obligation or more; or has an adjudicated arrearage in an amount equal to six (6) months obligation or more.
2. The subject of outstanding failure to appear, a body attachment, or bench warrant related to a child support proceeding.

Our records indicate that you are either behind in your court ordered child support payment or the subject of a matter relating to child support proceedings:

- _____ delinquent in court ordered child support payments or adjudicated arrears which equals six (6) months or more obligation.
- _____ the subject of an outstanding failure to appear warrant
- _____ the subject of a body attachment
- _____ the subject of a bench warrant

Your commercial driver's license will be suspended in ninety (90) days from the date of your receipt of this notice, unless a written request for a administrative hearing is received within thirty (30) days to determine whether the condition for suspension does not exist. A written request for an administrative hearing should be directed to the attention of the OCSE Appeals and Hearings Office, P.O. Box 8133, Little Rock, AR 72203.

If you have any question or if you would like to discuss this matter with a child support investigator please call _____,
County Office of Child Support Enforcement, (501) _____ - _____.

OFFICE OF CHILD SUPPORT ENFORCEMENT

State of Arkansas

Division of Revenue Services

Department of Finance & Administration

Notice of Intent to Suspend Commercial Driver's License

DATE:

TO:

Commercial Driver's License # : _____

Child Support Case Number: _____ SSN: _____

In accordance with Act 1241 of 1993, Ark. Code Ann. § 27-23-125, the Office of Child Support Enforcement can suspend a commercial driver's license of a non-custodial parent who is :

1. Delinquent on a court-ordered child support payment in an amount equal to six (6) months obligation or more; or has an adjudicated arrearage in an amount equal to six (6) months obligation or more.
2. The subject of outstanding failure to appear, a body attachment, or bench warrant related to a child support proceeding.

Our records indicate that you are either behind in your court ordered child support payment or the subject of a matter relating to child support proceedings:

- _____ delinquent in court ordered child support payments or adjudicated arrears which equals six (6) months or more obligation.
- _____ the subject of an outstanding failure to appear warrant
- _____ the subject of a body attachment
- _____ the subject of a bench warrant

Your commercial driver's license will be suspended in ninety (90) days from the date of your receipt of this notice, unless a written request for a administrative hearing is received within thirty (30) days to determine whether the condition for suspension does not exist. A written request for an administrative hearing should be directed to the attention of the OCSE Appeals and Hearings Office, P.O. Box 8133, Little Rock, AR 72203.

If you have any question or if you would like to discuss this matter with a child support investigator please call _____,
County Office of Child Support Enforcement, (501) _____ - _____.

INSTALLMENT AGREEMENT
FOR
UNPAID CHILD SUPPORT

FILED
AR. REGISTER DIV.
94 OCT 20 PM 3:01

THIS AGREEMENT is entered between _____, W.J. "BILL" MCCUEN
hereafter referred to as "Obligor", and Judy Jones Jordan, SECRETARY OF STATE
Administrator, Office of Child Support Enforcement, hereafter LITTLE ROCK, ARKANSAS
referred to as Administrator.

WHEREAS, Obligor is over six (6) months delinquent on child support payments established under Court order dated _____, 19____, Case or Docket No. _____, _____ vs. _____, IV-D No. _____, thereby subjecting Obligor to Commercial Driver's License (CDL) suspension under Act 1241 of 1993.

To date, unadjudicated arrearages on this case total \$_____. Adjudicated arrearages established under previous orders, including the above order, total \$_____. Obligor's obligation for current support is \$_____ per _____.

NOW THEREFORE, for and in consideration of the terms and conditions herein, the parties agree as follows:

1. On or before _____, 19____, Obligor shall make a lump-sum child support payment in the amount of \$_____. This payment shall be made as follows: _____

2. Obligor shall make periodic child support payments in the amount of \$_____ per _____, which amount includes current support plus an additional amount of \$_____ per _____ to be applied to the arrearage, said payments starting _____. Until further notice, payments are to be made by _____.

Obligor as follows:_____

3. Administrator agrees to forestall any further action to suspend Obligor's CDL, however if Obligor defaults by failing to make payment in full on any lump sum or installment payment specified under this agreement within 30 days of the due date, Obligor acknowledges and consents that Obligor's CDL will be immediately suspended by OCSE under the authority of Act 1241 of 1993, without further notice.

4. Obligor agrees that in the event of a 30 day default under paragraph 3 above, by Obligor on any payment due under this Installment Agreement that Obligor waives all notice of intent to suspend Obligor's CDL and any right to an administrative hearing prior to suspension.

5. The remedies provided by this Installment Agreement For Unpaid Child Support are cumulative and do not affect the availability of remedies under other laws which are intended to facilitate the collection of child support.

Signature of Obligor

Date

Investigator, OCSE

Date

JUDY JONES JORDAN, Administrator, OCSE
By: Authorized Designee

Field Manager, OCSE

Date