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Effective Date

7/28/95

Classification number

006.25.95--002

Name of Agency Office of Child Support Enforcement Dept. DFA/ Revenue

Contact Person James Barnhill

Telephone 682-6038

Statutory Authority for Promulgating Rules ACT 752 of 1995 §23 Act 1184 of 1995

Procedure for Suspension of License for Non-payment of Child Support

Title of Rule

Rule Status

☐ New Rule

☐ Existing Rule

☐ revised, amended, and/or changed

☐ Repealed Rule

☐ rescinded, abolished, and/or revoked

Effective date:

☒ Emergency July 28, 1995

☐ 20 days after filing

☐ Other

☐ Repealed

☐ Adopted by State Agency

CERTIFICATION OF AUTHORIZED OFFICER

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

Signature

Title

Date

7-28-95

Office of Child Support Enforcement

Subj: Regulations Governing License Suspension for Non-Payment of Support

The above referenced agency regulations are intended to be issued effective this date on an emergency basis in preservation of the health, welfare and safety of the public in order to promote the best interest of families and children.

Judy Jones Jordan
Judy Jones Jordan, Administrator

July 28, 1995
Date

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automation with the IV-D data base. Field staff should periodically make inquiries with custodial parents or other knowledgeable sources to determine if a noncustodial parent holds a State issued license subject to suspension under Act 752 or Act 1184 when either of the following two (2) conditions exists on a case:

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, body attachment, or bench warrant related to a child support proceeding.

Note: If the NCP has filed bankruptcy, no action to suspend or revoke a license should be taken unless an Order granting relief from

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the Automatic Stay has been obtained from Bankruptcy Court. Consult with the responsible IV-D attorney.

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. "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 at least six (6) months obligation before being subject to license suspension.

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

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3) Noncustodial parents who are currently in compliance with a written agreement with OCSE requiring periodic installment payments for liquidation of a child support delinquency or adjudicated arrearage; noncustodial parents currently in compliance with their most recent court order reducing a child support arrearage to proper judgment and requiring periodic payments for liquidation of the judgment; or noncustodial parents who are currently making regular and periodic payments on a child support delinquency or adjudicated arrearage through income withholding.

4) The NCP enters an Agreed Order or written installment agreement with OCSE with instructions to pay current support plus an additional specified amount to be applied to the arrearage/delinquency. The Agreed Order or written installment agreement should contain a provision which stipulates that if the NCP becomes 30 days delinquent on the Agreed Order or written agreement, the license(s) affected will be suspended immediately, and that the NCP specifically waives all rights to an administrative

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hearing or further notice prior to the suspension(s).

5) Noncustodial parent's who are periodically making regular payments voluntarily, in an amount equal to current support, plus at least 10% toward liquidation of the arrearage/delinquency.

4805.1
NOTICE OF
INTENT TO
SUSPEND
NOTICE

If either Condition 1 or Condition 2 noted above exists and none of the five (5) Exceptions apply, a Notice of Intent to Suspend License (OCSE-1695, the "90 day Notice") will be mailed to the NCP by the responsible field office. Notices should be sent certified mail to the most current address provided on the printout as provided by the licensing authorities or to the address provided to the court by the NCP, unless a verified address has been obtained. In the event a Notice sent by certified mail is rejected or unclaimed, a subsequent mailing of the Notice by regular first class mail shall be considered sufficient. The Notice will specifically identify all known specified licenses and permanent license plates held by the

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noncustodial parent to be suspended in 90 days, and it will inform the noncustodial parent of the opportunity to request an Administrative Hearing within 60 days following receipt of the 90 day Notice.

4805.2
INFORMAL
COMPLAINT
RESOLUTION

Following issuance of the 90-day notice (OCSE-1695), a NCP may avoid license suspension by contacting the local IV-D office and entering into an Agreed Order or written installment agreement with OCSE as described in Exception 4 of Section 4805. Agreed Orders and written installment agreements made after issuance of a 90-day notice should 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-1695. 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 will promptly attempt to resolve the complaint. Issues that can not be resolved by the local IV-D office should be forwarded to

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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, bench warrant, or bench attachment. 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, bench attachment, or bench warrant remains, adverse action for license suspension must proceed under this policy.

4805.4
HEARING
NOTICE
AND
PACKET

Referral packets for administrative hearings must contain copies of the following:

- 90-day Notice (OCSE-1695)
- 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.

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The packet should be routed to the Central Office, Attention: Appeals and Hearings. The Appeals and Hearings Section will notify the NCP and the responsible local IV-D office 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. The Appeals and Hearings Section will also confirm for the initiating local IV-D office that the hearing packet has been received and whether any additional information or documents are needed.

4805.5
SUSPENSION
HEARING

Administrative hearings on license suspension will be conducted in accordance with Section 7000, Rules of Order for Administrative Hearings, with the exception that 60 days are allowed to request an administrative hearing following receipt of the 90 day notice. Administrative hearings on license suspension are limited to a determination whether either of the two (2) Conditions under Section 4805

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are present and whether any of the five (5) Exceptions are satisfied.

4805.6
RIGHT OF
APPEAL TO
CHANCERY
COURT OR THE
JUVENILE
DIVISION
THEREOF

NCP's not satisfied with an agency administrative hearing decision have the right of appeal to a court of appropriate jurisdiction. Within thirty (30) days (60 days in the event of CDL suspension) from the effective date of the suspension, the noncustodial parent may appeal the suspension action by filing a petition in the chancery court or the juvenile division thereof as appropriate of the county wherein the child support order was entered. The petition is filed by the noncustodial parent with the appropriate Chancery Clerk and must be accompanied with a copy of the Notice of Suspension attached, or a copy of the final administrative hearing decision. The noncustodial parent is responsible for causing the Chancery Court Clerk to issue a summons and service of these documents on the OCSE Administrator. The case shall be tried de novo, but a certified copy of the complete administrative hearing record and transcript when available will be submitted to the Court by OCSE

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within 30 days from the date of service on the agency or within such further time as the Court may allow, but not exceeding an aggregate of 90 days.

Chancery and Juvenile Judges are vested with jurisdiction to determine whether the petitioner is entitled to license reinstatement or whether the decision of the hearing officer should be affirmed, modified, or reversed.

For persons paying child support pursuant to Ark. Ann. §9-17-501 or §9-17-502, the foreign order shall be registered by OCSE pursuant to §9-17-601 et seq.

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 of driver's and commercial drivers licenses. 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

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Suspend License (OCSE-1695), 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 license reinstated. Following license suspension, a noncustodial parent may obtain license reinstatement by entering into an agreed order or written installment agreement with OCSE as described in Section 4805, Exception #4. The Agreed Order or written installment agreement should contain a provision requiring a lump sum payment in addition to requiring the periodic payment of current support and regular periodic payments on the arrearage/delinquency. It is imperative that the Central Office be notified to immediately take necessary actions to restore the license or permanent license plate of the noncustodial parent when the condition warranting suspension has been removed. However, if the license has otherwise expired, the NCP should be advised to contact the appropriate licensing authority to obtain a new license.

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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 in section 4805. If the NCP takes such action eliminating the threshold condition for 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.

In the event of fraud or mistake, resulting in a wrongful suspension, OCSE shall immediately notify the licensing authority involved to restore the license or permanent license plate of the noncustodial parent as appropriate.

4806
REFERRALS
AND
INJUNCTIONS

Whenever OCSE or any of its local offices determines that a noncustodial parent has engaged in an activity not authorized per license suspension, a referral should be made to the licensing authority

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and/or to law enforcement, as appropriate. In some cases the local IV-D office may consider seeking a court injunction from the appropriate Chancery Court or Juvenile Division thereof restraining the noncustodial parent from any activity not permitted during the period of license suspension. The responsible IV-D attorney should be consulted if the local IV-D Office believes that injunctive relief should be pursued.

4807

LAW LICENSE

REVIEW

Semiannually, the Clerk of the Arkansas Supreme Court is requested to furnish the Office of Child Enforcement with a list of persons that possess an Arkansas Law License. NCP's on the list who meet one of the Conditions and none of the Exceptions of Section 4805 will be referred to the Clerk of Supreme Court for review of their license.

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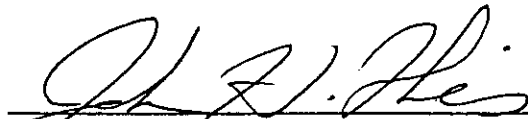
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DATE

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APPROVED:



John Theis
Assistant Commissioner of Revenue
Department of Finance and Administration

DATE: 7-28-95



Tim Leathers, Deputy Director
Department of Finance and Administration

DATE: 7-28-95



Richard A. Weiss, Director
Department of Finance and Administration

DATE: 7-28-95

OFFICE OF CHILD SUPPORT ENFORCEMENT

State of Arkansas

Division of Revenue

Department of Finance & Administration

P.O. Box 8133, Little Rock, AR 72203
Phone: Voice (501) 682-8411 Fax (501) 682-6002

NOTICE OF INTENT TO SUSPEND LICENSE (S)

DATE:

TO:

CHILD SUPPORT CASE #

SSN

In accordance with Act 752 of 1995, and Section 23 of Act 1184 of 1995, the Office of Child Support Enforcement can suspend a commercial or non-commercial driver's license, permanent vehicle license plates, occupational, professional and business licenses of a non-custodial parent who is:

- ___ 1. Delinquent on a court-ordered child support payment or and adjudicated arrearage in the amount equal to six (6) months obligation or more; OR
- ___ 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 body attachment or warrant relating to child support proceedings, as indicated above.

The following license(s) held in your name have been identified as subject to suspension:

- ___ commercial and / or non-commercial driver's license # _____;
- ___ vehicle(s) license plate #'s _____ & # _____
- ___ professional or occupational license # _____ for _____
- ___ business license # _____ for _____
- ___ other license (s) _____

Each license identified above will be suspended in ninety (90) day from the date of your receipt of this notice, unless a written request for an administrative hearing is received within sixty (60) 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 questions or if you wish to pursue entering into an installment agreement in order to avoid suspension of the identified license(s), please contact _____ at (501) _____.

INSTALLMENT AGREEMENT
FOR
UNPAID CHILD SUPPORT

THIS AGREEMENT is entered between _____, hereinafter referred to as **Obligor**, and the Administrator, Office of Child Support Enforcement, hereafter 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 suspension of the following identified State issued licenses pursuant to Act 752 of 1995 and Section 23 of Act 1184 of 1995:

_____ Commercial and/or non-commercial driver's license, # _____;
_____ Vehicle(s) license plate #'s _____ & # _____;
_____ Professional or occupational license # _____ for _____;
_____ Business license # _____ for _____;
_____ Other license(s) _____.

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 an 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 the **Obligor** as follows: _____

3. **Administrator** agrees to forestall any further action to suspend **Obligor's** State issued licenses identified in this Installment Agreement, however if **Obligor** defaults by failing to make payments 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 each of **Obligor's** licenses identified herein will be immediately suspended by OCSE under the authority of Act 1184 of 1995 and/or Act 752 of 1995, without further notice.

4. **Obligor** agrees that in the event of a 30 day default under paragraph 2 above, by **Obligor** on any payment due under this Installment Agreement that **Obligor** hereby expressly waives any right to further notice of intent to suspend **Obligor's** identified licenses 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

ADMINISTRATOR, OCSE

By: Authorized Designee

Field Manager, OCSE

Date

Department of Finance & Administration

ROUTE SLIP

To Tanya Springer
Ark. Register
Sec. of State

From Jim Barnhill
Child Support
Date 8-17-95

- ☐ Prepare Suggested Response
- ☐ Furnish Written Comments
- ☐ For Necessary Action
- ☐ Note and Return
- ☐ As Requested

- ☐ For Approval or Signature
- ☐ For Your Information
- ☐ Initial and Forward
- ☐ Please See Me
- ☐

Remarks:

ADC-CDC-621

Enclosed is Attachment A to OCSE
Policy Section 4805, which was
filed July 28, 1995.

Thanks for your assistance.

Jim Barnhill
682-6039

006.25.95-0027

L I C E N S E

ATTACHMENT "A"

<u>TYPE</u>	<u>Arkansas Code</u>	<u>TITLE</u>
1. Abstracters	17	
2. Accountants	17	
3. Agricultural inspectors	2	
4. Agricultural consultants	17	
5. Sale of alcoholic beverages	3	
6. Appraisers	17	
7. Architects	17	
8. Asbestos; removal, consultants, contractors, and training providers	20	
9. Athletic Agents	17	
10. Auctioneers	17	
11. Automobile clubs, agents	23	
12. Child care facilities; owners, operators	20	
13. Bail bondsmen	17	
14. Barbers	17	
15. Billiard halls; owners, operators	14	
16. Boiler inspectors, sales, installations	20	
17. Bowling alleys; owners, operators	14	
18. Boxing	17	
19. Brokers, dealers, agents, and investment advisers	23	
20. Buyers of precious metals	17	
21. Child placement agencies	9	
22. Chiropractors	17	

L I C E N S E

<u>TYPE</u>	<u>Arkansas Code</u>	<u>TITLE</u>
23. Cigarettes and tobacco products; purchasing for resale, or selling	4	
24. Collection agencies	17	
25. Contractors	17	
26. Controlled substances; wholesale distributor	20	
26. Correspondence schools; owners, operators	6	
27. Cosmetology	17	
28. Counselors	17	
30. Dentist, dental hygienists	17	
31. Dietetics practice	17	
32. Disease intervention specialists	17	
33. Drivers license	27	
34. Drug precursor; manufacture, possession, transfer, transportation	5	
35. Electricians	17	
36. Elevators/escalators, inspectors	20	
37. Embalmers and funeral directors	17	
38. Engineers	17	
39. Ferries; owners, operators	27	
40. Fires extinguisher; sales, service installation, repair	20	
41. Fireworks dealers	20	
42. Fishing	15	
43. Foresters	17	

L I C E N S E

<u>TYPE</u>	<u>Arkansas Code</u>	<u>TITLE</u>
44. Fraternal benefit societies, agents	23	
45. Funeral homes	17	
46. Geologist	17	
47. Ginseng; retail sales, artificial propagation	2	
48. Going out of business sales	4	
49. Greyhound racing; owners, trainers	23	
50. Hazardous substances	8	
51. Healing arts	17	
52. Hearing aid dispensers	17	
53. Home Builders	17	
54. Home health services	26	
55. Horse racing; owner, trainer, jockey, jockey agent	23	
56. Hunting	15	
57. HVACR	17	
58. Insurance; agents, brokers, and solicitors	23	
59. Itinerant merchants	17	
60. Landscape architects	17	
61. Liming materials; vendors	2	
62. Long term care facilities; administrators	20	
63. Massage therapists	17	
64. Medical waste; owners, operators	20	
65. Mental health; family home I or II	20	
66. Lay Midwives	17	

L I C E N S E

<u>TYPE</u>	<u>Arkansas Code</u>	<u>TITLE</u>
67. Milk sampler and grader	20	
68. Motor cycles	27	
69. Motor vehicles; dealers, distributors, manufacturers, salesmen	23	
70. Mussels taker; boat, buyer, shelltaker	15	
71. Narcotic drugs; manufacturers and wholesalers	20	
72. Nurseries; owners, operators	2	
73. Nurses	17	
742. Occupational therapists	17	
753. Ophthalmic dispensers	17	
76. Optometrists	17	
77. Osteopaths	17	
78. Pest control	17	
79. Pesticides	20	
80. Pharmacists	17	
81. Physical therapists	17	
82. Physicians and surgeons	17	
83. Physician's Trained Assistants	17	
84. Plumbers	17	
85. Podiatrists	17	
86. Polygraph examiners	17	
87. Private investigators and private security agencies	17	
88. Professional Fund Raisers and Solicitors	17	

L I C E N S E

<u>TYPE</u>	<u>Arkansas Code</u>	<u>TITLE</u>
89. Prophylactics; wholesale, retail	20	
90. Psychologists	17	
91. Real estate brokers and salesmen	17	
92. Residence and correspondence schools; owners, operators	6	
93. Respiratory care practitioners	17	
94. Security guards	17	
95. Septic tank cleaners	17	
96. Social workers	17	
97. Soil Classifiers	17	
98. Speech pathologists and audiologists	17	
99. Surveyors	17	
100. Teachers	6	
101. Transient merchants	17	
102. Veterinarians and Animal Technicians	17	
103. Voice stress analysis examiners	17	
104. Wastewater plant operators	8	
105. Water system operators	17	
106. Water well constructors	17	