REGISTER ARKANSAS



95 NOV 16 PH Transmittal Sheet

Sharon Priest Secretary of State

State Capitol Rm. 010 Little Rock, Arkansas 72201-1094

For Office Use Only: Effective Date 11/25	95 Code Number <u>006.25,95003</u>
Name of Agency Office of Child Department DFA/Revenue	Support Enforcement
Contact Person Jim Barnhill	
Statutory Authority for Promulgating	ng Rules Act 752 and §23 of Act 1184 of 1995
Intended Effective Date Emergency 10 -20-Days After Filing Other	Legal Notice Published
	Adopted by State Agency 11-27-95

CERTIFICATION OF AUTHORIZED OFFICER

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

FILED AR. REGISTER DIV.

95 NOV 16 PM 4:08

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DATE

SUBJECT

Investigator NREsponsibilities

<u>BY.</u>

4805

LICENSE

SUSPENSION

Together, Act 752 of 1995 and §23 of Act 1184 of 1995 authorize and establish procedures for the suspension of specified State issued licenses, including commercial driver's and driver's licenses; permanent license plates; and occupational, professional and business licenses of a noncustodial parent, if certain conditions exist See Attachment A to this section for a on a case. complete listing of all State issued licenses subject to suspension under this section. interviewing the noncustodial parent, the local IV-D office shall request that the noncustodial parent allow the office to copy the noncustodial parent's driver's (or commercial driver's) license Social Security card for identification purposes and for future reference. This information is to be maintained in the file at the local IV-D office. Quarterly, to the extent available, field staff will receive printouts by social security number of noncustodial parents holding State issued licenses subject to suspension. All licensing authorities affected may not initially be capable of interface 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 is delinquent on payments toward 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

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.
- 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.

- The NCP enters an Agreed Order or written 4) 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 the further notice prior to hearing or suspension(s).
- 5) Noncustodial parents who are periodically making regular payments voluntarily, in an amount equal to current support, plus at least 10% toward liquidation of the arrearage/delinquency, or are

paying to the extent permitted under Consumer Credit Protection Act guidelines.

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 unclaimed, a subsequent mail is rejected or 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 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 Agreed Orders and written installment 4805. 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-In the event the NCP contests the accuracy of the arrearage information or the duration of the delinguency, 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 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 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.

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 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 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 commercial drivers licenses. All suspensions and reinstatements must be submitted in writing to Appeals and Hearings Central Office, Attention: Section. To ensure that the NCP is allowed 90 days from the receipt by mail of the Notice of Intent to Suspend License (OCSE-1695), a copy of this Notice must be retained in the case file with the signed mail receipt attached, whenever certified NCP's who pay their arrearage below an available. amount equal to six (6) months obligation must have Following license reinstated. 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.

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 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.

Investigator Responsibilities Subject Semiannually, the Clerk of the Arkansas Supreme 4807 Court is requested to furnish the Office of LAW LICENSE Child Enforcement with a list of persons that REVIEW 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.

APPROVED:

John Theis

Assistant Commissioner of Revenue

Department of Finance and Administration

Tim Leathers, Deputy Director Department of Finance and Administration

Richard A. Weiss, Director

Department of Finance and Administration

DATE: /0/6/

CONTACT PERSON:

James B. Barnhill, Attorney Supervisor

Office of Child Support Enforcement

P.O. Box 8133

Little Rock, AR 72203 PH: (501) 682-6039 %

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TYPE		·,	SECRET	ARY DASKAPSA	s Code	TITLE
	ı		BY	FARKANSAS		

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
1 1.	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

	<u>TYPE</u> <u>Arkans</u>	as Code 1	CITLE
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,		21
	transfer, transportation		5
35.	Electricians		17
36.	Elevators/escalators, inspectors		20
	Embalmers and funeral directors		17
38.	Engineers		
39.	Ferries; owners, operators		17
40.	Fires extinguisher; sales, service installation,		27
41.	Fireworks dealers	repair	20
42.	Fishing	• ,	20
43.	Foresters	,	. 15
			17

	<u>TYPE</u> <u>Arkansa</u>	s Code	TITLE
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 agen	it	23
56.	Hunting		15
57.	HVACR		17
58.	Insurance; agents, brokers, and solicitors	-	23
59.	Itinerant merchants		17
60.	Landscape architects		17
б1.	Liming materials; vendors		2
62.	Long term care facilities; administrators		20
63.	Massage therapists		17
54.	Medical waste; owners, operators		20
55.	Mental health; family home I or II	٠	20
56.	Lay Midwives		. 17

	TYPE	<u>Arkansas</u>	Code	TITLE
67.	Milk sampler and grader			20
68.	Motor cycles			27
69.	Mctor vehicles; dealers, distributors,		_	-
	manufacturers, salesmen			23
70.	Mussels taker; boat, buyer, shelltaker		•	15
71.	Narcotic drugs; manufacturers and wholesa	lers		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	agencie	s	: 17
88.	Professional Fund Raisers and Solicitors			. 17

	TYPE	Arkansas	Code	TITLE
89.	Prophylactics; wholesale, retail			2.0
90.	Psychologists			20
91.	Real estate brokers and salesmen			17
92.			-	1.7
93.	Residence and correspondence schools; owr	ners, open	ators	5 6
	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	٠		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

OFFICE OF CHILD SUPPORT ENFORCEMENT

State of Arkansas

Division of Revenue

Department of Finance & Administration AL PROPERTY

P.O. Box 8133, Little Rock, AR 72203
Phone: Voice (501) 682-8411 Fax (501) 682-60025 NOV 16 PM 4:08

NOTICE OF INTENT TO SUSPEND LICENSE (S) TE OF ARKANSAS DATE: TO: SSN CHILD SUPPORT CASE # 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 noncommercial 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 havinstallment	ve any : agreem	questions ment in	order	if to	you avo	wish oid s	to suspe	pursue nsion	en of	tering	into identif	an ied
license(s), at (501)	please				•	 						

INSTALLMENT AGREEMENT FOR UNPAID CHILD SUPPORT

THIS AGREEMENT is entered between	, hereinafter
referred to as Obligor, and the Administrator, Office of Child Support Enforce	ment, hereafter
referred to as Administrator.	
WHEREAS, Obligor is over six (6) months delinquent on child sup	port payments
established under Court order dated, 19, Case or	
, IV-D No, the	
Obligor to suspension of the following identified State issued licenses pursuant	
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 condition	ons herein, the
parties agree as follows:	÷ ₂ .
1. On or before, 19, Obligor shall make a h	ımp-sum child
support payment in the amount of \$	
This payment shall be made as follows:	· · · · · · · · ·

2. Obligor shall make periodic chi	ld support payments in the amount of
\$, which amount i	
amount of \$ per to	
starting Until furthe	
Obligor as follows:	
•	y further action to suspend Obligor's State
issued licenses identified in this Installment Agreen	nent, however if Obligor defaults by failing
to make payments in full on any lump sum or installr	nent payment specified under this agreement
within 30 days of the due date, Obligor acknowledge	edges and consents that each of Obligor's
licenses identified herein will be immediately suspe	ended by OCSE under the authority of Act
1184 of 1995 and/or Act 752 of 1995, without furth	ner 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 Installmen	t Agreement that Obligor hereby expressly
waives any right to further notice of intent to suspen	d Obligor's identified licenses and any right
to an administrative hearing prior to suspension.	
. 5. The remedies provided by this Install	ment Agreement For Unpaid Child Support
are cumulative and do not affect the availability of re	medies 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

AR. STEISTER DIV.

DIVIS PERSO TELEP To co	TIMENT Finance & Administration 95 NOV 16 PM 4:08 SION Revenue - Office Of Child Support Enforcement ON COMPLETING THIS STATEMENT SECRETARY OF STATE OHONE NO. 501-682-6039 FAX NO. 5682-8488ANSAS BY FINANCIAL IMPACT STATEMENT Omply with Act 884 of 1995, please complete the following acial Impact Statement and file with the questionnaire and osed rules. TITLE OF THIS RULE License Suspension
1.	Does this proposed, amended, or repealed rule or regulation have a financial impact? Yes X No
2.	If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain. Estimation of costs is not overly speculative
3.	If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation. N/A
	1995-96 Fiscal Year 1996-97 Fiscal Year
:	General Revenue Federal Funds Cash Funds Cash Funds Special Revenue Other Total General Revenue Federal Funds Cash Funds Special Revenue Other Total
4.	What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulation?
	1995-96 Fiscal Year 1996-97 Fiscal Year
	See Attachment
5.	What is the total estimated cost by fiscal year to the agency to implement this regulation?
?	1995-96 Fiscal Year 1996-97 Fiscal Year See Attachment

IMPACT OF LICENSE SUSPENSION

General Information

The Office of Child Support Enforcement has successfully implemented an administrative process for suspension of commercial driver's licenses under legislation enacted in 1993. It has been proven that the vast majority of persons not paying on their child support obligation begin paying once they realize the consequences of their failure to pay court ordered child support. Noncustodial parents who are 6 months behind on child support can avoid license suspension by agreeing to meet their current court ordered child support obligation plus an additional amount to be applied toward The majority of license satisfaction of unpaid arrearage. suspension actions have been avoided or reinstated quickly when noncustodial parents agree to pay back support. No court actions have been necessary since the agency can quickly reinstate licenses upon agreement of the responsible parent to begin paying support.

Collection of child support from non-traditional wage earners is a difficult and often frustrating experience for families and front-line child support caseworkers. Traditional remedies such as income withholding and tax refund offset do not work. Noncustodial parents who are self-employed hold some type of license that they use in the course of their business, whether it is a regular driver's license, business or professional license or a license to sell liquor, insurance or real estate or a commercial driver's license. In many cases, affecting the noncustodial parent's right to have a license is the only remedy available to collect child support.

has incurred very little additional costs implementation of the commercial driver's license suspension program in 1994. This initiative has not required the addition of new staff or equipment. Some additional postage expense has been necessary, but even this amount has been minimal as the agency parents. corresponds with noncustodial implementation of the broader license suspension authority under the agency anticipates few increases 752 of 1995. administrative costs due to the additional activity, as trained staff and adequate facilities are presently in place for this enforcement effort.

Nationally

- 15 million workers or 13% of those who filled income tax forms in 1991 were self-employed.
- 38.5% of total child support collections are from remedies other than income withholding, tax refund offset and unemployment compensation.

Other State's Experiences

- Maine collected \$11,598,775 from August, 1993 to June, 1994 from 9,901 individuals through their administrative process for license revocation. Maine targets occupational professional and drivers licenses. As of June, 1994 only 8 licenses were actually revoked.
- California's administrative process for license revocation matched 10,000 noncustodial parent license holders with delinquent child support obligations in the first year. The estimated increase in collections is \$1000 to \$1200 per match.

The Arkansas Experience (CDL)

- From October, 1994 through July, 1995 over \$187,000 in overdue child support payments was collected through the commercial driver's license suspension program.
- In September, 1995, a total of 53 Installment Payment Agreements was entered with noncustodial parents following issuance of 90 day suspension notices, representing over \$284,000 in child support arrearages. Over \$17,000 was collected in lump sum payments; and over \$36,000 in installment payment obligations was secured.