**South Carolina General Assembly**

121st Session, 2015-2016

**H. 4175**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Neal, Parks, Jefferson and Weeks

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Companion/Similar bill(s): 4054

Introduced in the House on May 13, 2015

Currently residing in the House Committee on **Judiciary**

Summary: Failure to pay child support

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

5/13/2015 House Introduced and read first time ([House Journal‑page 19](file:///h:\HJ%20Archive\2015\05-13-15.docx))

5/13/2015 House Referred to Committee on **Judiciary** ([House Journal‑page 19](file:///h:\HJ%20Archive\2015\05-13-15.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=4175&session=121&summary=B) at the website

**VERSIONS OF THIS BILL**

[5/13/2015](file:///p:\pprever\2015-16\4175_20150513.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63‑17‑1095 SO AS TO ALLOW PROFESSIONAL DISCIPLINE, UP TO AND INCLUDING REVOCATION OF BUSINESS, OCCUPATIONAL, OR PROFESSIONAL LICENSES OR OTHER CERTIFICATIONS, FOR FAILURE TO PAY CHILD SUPPORT; TO AMEND SECTION 63‑5‑20, RELATING TO THE DUTY TO PROVIDE REASONABLE SUPPORT FOR SPOUSES AND CHILDREN, SO AS TO REQUIRE COURTS TO TAKE INTO CONSIDERATION EMPLOYMENT CIRCUMSTANCES WHEN DETERMINING WHETHER THERE IS JUST CAUSE OR EXCUSE FOR A PERSON NOT TO PROVIDE REASONABLE SUPPORT; TO AMEND SECTION 63‑17‑390, RELATING TO PLACING PERSONS IN JAIL FOR FAILURE TO COMPLY WITH A CHILD SUPPORT ORDER, SO AS TO REQUIRE THE COURT TO DETERMINE WHETHER THERE IS JUST CAUSE OR EXCUSE FOR NONCOMPLIANCE, INCLUDING EMPLOYMENT CIRCUMSTANCES, AND TO PROHIBIT PLACING PERSONS IN JAIL IF THERE IS JUST CAUSE OR EXCUSE FOR NONCOMPLIANCE; AND TO AMEND SECTION 63‑17‑1020, RELATING TO CHILD SUPPORT ENFORCEMENT THROUGH LICENSE REVOCATION, SO AS NOT TO APPLY TO BUSINESS, OCCUPATIONAL, OR PROFESSIONAL LICENSES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 7, Chapter 17, Title 63 of the 1976 Code is amended by adding:

“Section 63‑17‑1095. Notwithstanding another provision of this article, a person who maintains a license, certificate, credential, permit, or any other authorization to engage in a business, occupation, or profession, including an attorney authorized to practice law by the South Carolina Supreme Court, is subject to professional discipline by the board, agency, or other entity that issues the license, certificate, credential, permit, or authorization for the wilful failure to pay court‑ordered child support, up to and including suspension or revocation of the right to engage in the business, occupation, or profession. The department has grounds to file a grievance with the board, agency, or other entity that authorizes a person to engage in a business, occupation, or profession, or in the case of an attorney with the Supreme Court, if the person is in wilful violation of a court order for child support.”

SECTION 2. Section 63‑5‑20 of the 1976 Code is amended to read:

“Section 63‑5‑20. (A) ~~Any~~ An able‑bodied person capable of earning a livelihood who ~~shall~~, without just cause or excuse, ~~abandon or fail~~ abandons or fails to provide reasonable support to ~~his or her~~ a spouse or ~~to his or her~~ a minor unmarried ~~legitimate or illegitimate~~ child ~~dependent upon him or her shall be deemed~~ is guilty of a misdemeanor and, upon conviction, ~~shall~~ must be ~~imprisoned for a term of not exceeding one year or be~~ fined not less than three hundred dollars ~~nor~~ or more than one thousand five hundred dollars, or imprisoned not more than one year, or both~~, in the discretion of the circuit court~~. A ~~husband or wife~~ person abandoned by ~~his or her~~ a spouse is not liable for the support of the abandoning spouse until ~~such~~ the abandoning spouse offers to return, unless the misconduct of the ~~husband or wife~~ person justified the abandonment. If a fine ~~be~~ is imposed, the circuit court may, in its discretion, order that a portion of the fine be paid to a proper and suitable person or agency for the maintenance and support of the ~~defendant’s~~ spouse or minor unmarried ~~legitimate or illegitimate~~ child.

(B) As used in this section, ‘reasonable support’ means an amount of financial assistance which, when combined with the support the ~~member~~ person seeking support is reasonably capable of providing ~~for himself or herself~~, will provide a living standard for the ~~member~~ person seeking support substantially equal to that of the person owing the duty to support~~. It includes~~, including both usual and unusual necessities.

~~(B)~~(C) ~~Any~~ A person who fails to receive the support required by this section may petition to a circuit court of competent jurisdiction for a rule to show cause why the obligated person should not be required to provide ~~such~~ the support and after proper service and hearing the circuit court ~~shall~~ in all appropriate cases shall order ~~such~~ the support to be paid. ~~Any such~~ The petition ~~shall~~ must specify the amount of support required. Compliance with the circuit court order ~~shall bar~~ bars prosecution under the provisions of subsection (A) ~~of this section~~.

(D) Before determining whether a person has violated the provisions of subsection (A), the court shall determine whether there is just cause or excuse to abandon or fail to provide reasonable support including, but not limited to, whether the person is unemployed, underemployed, or unable to work due to a disability and the extent to which the person has made sufficient efforts to maintain employment and obtain benefits that would enable the person to pay reasonable support. The court shall make written findings in the order that address whether there exists just cause or excuse not to provide reasonable support.”

SECTION 3. Section 63‑17‑390 of the 1976 Code is amended to read:

“Section 63‑17‑390. ~~Where~~ If a respondent ~~shall neglect or refuse~~ neglects or fails to obey an order for support or upon agreement signed by the respondent and approved by the court, and the court is satisfied thereof by competent proof, it may, with or without notice, issue a warrant to commit the respondent to jail until the order is obeyed or until the respondent is discharged by law. However, the court must not issue a warrant before making a determination whether there is just cause or excuse for the respondent to abandon or fail to provide reasonable support including, but not limited to, whether the respondent is unemployed, underemployed, or unable to work due to a disability and the extent to which the respondent has made sufficient efforts to maintain employment and obtain benefits that would enable the respondent to pay reasonable support. If there is just cause or excuse for the respondent not to pay reasonable support, the court must not commit the respondent to jail.”

SECTION 4. Section 63‑17‑1020(5) of the 1976 Code is amended to read:

“(5)(a) ‘License’ means:

~~(a)~~ ~~a certificate, license, credential, permit, registration, or any other authorization issued by a licensing entity that allows an individual or is required of an individual to engage in a business, occupation, or profession and includes, but is not limited to, a medical license, teaching certificate, commission and certificate of training from the South Carolina Criminal Justice Academy for a sworn law enforcement officer, and a hunting, fishing, or trapping license for commercial use and the privilege to hunt, fish, or trap or hold a hunting, fishing, or trapping license for commercial use;~~

~~(b)~~(i) a driver’s license and includes, but is not limited to, a beginner’s or instruction permit, a restricted driver’s license, or a motorcycle driver’s license~~, or a commercial driver’s license~~;

~~(c)~~(ii) a hunting, fishing, or trapping license for recreational purposes and the privilege to hunt, fish, or trap or hold a hunting, fishing, or trapping license for recreational purposes; and

~~(d)~~(iii) a watercraft registration.

~~‘License’ does not include the authority to practice law; however, the Supreme Court may consider as an additional ground for the discipline of members of the bar the wilful violation of a court order including an order for child support. The department has grounds to file a grievance with the Supreme Court if a licensed attorney is in wilful violation of a court order for child support.~~

(b) ‘License’ does not mean:

(i) a certificate, license, credential, permit, registration, or any other authorization issued by a licensing entity that allows an individual or is required of an individual to engage in a business, occupation, or profession and includes, but is not limited to, a medical license, teaching certificate, commission and certificate of training from the South Carolina Criminal Justice Academy for a sworn law enforcement officer, and a hunting, fishing, or trapping license for commercial use and the privilege to hunt, fish, or trap or hold a hunting, fishing, or trapping license for commercial use; or

(ii) the authority to practice law, as determined by the South Carolina Supreme Court.”

SECTION 5. This act takes effect upon approval by the Governor.

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