**South Carolina General Assembly**

122nd Session, 2017-2018

**H. 5092**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. G.M. Smith

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Companion/Similar bill(s): 1003

Introduced in the House on March 8, 2018

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

Summary: Child Support

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/8/2018 House Introduced and read first time ([House Journal‑page 19](file:///h:\hj\20180308.docx))

3/8/2018 House Referred to Committee on **Judiciary** ([House Journal‑page 19](file:///h:\hj\20180308.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=5092&session=122&summary=B) at the website

**VERSIONS OF THIS BILL**

[3/8/2018](file:///p:\pprever\2017-18\5092_20180308.docx)

**A** **BILL**

TO AMEND SECTIONS 63‑17‑1410, 63‑17‑1420, 63‑17‑1440, 63‑17‑1460, 63‑17‑1470, 63‑17‑1480, 63‑17‑1500, AND 63‑17‑1520, CODE OF LAWS OF SOUTH CAROLINA, 1976, ALL RELATING TO INCOME WITHHOLDING TO ENFORCE CHILD SUPPORT, SO AS TO ADD A DEFINITION FOR “AUTHORIZED AGENCY” AND TO SUBSTITUTE THE TERM “AUTHORIZED AGENCY” FOR “CLERK OF COURT”.

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

SECTION 1. Section 63‑17‑1410 of the 1976 Code is amended to read:

“Section 63‑17‑1410. As used in this section:

(1) ‘Arrearage’ means the total amount of unpaid support obligations.

(2) ‘Authorized agency’ means the clerk of court or the Child Support Services Division of the Department of Social Services.

(3) ‘Court’ as used in this section means Family Court.

(~~3~~4) ‘Delinquency’ means when a support payment owed by an obligor pursuant to an order of support is overdue in an amount equal to at least one month’s support obligation.

(~~4~~5) ‘Income’ means any periodic form of payment to an individual regardless of source including, but not limited to, wages, salary, commission, bonuses, compensation as an independent contractor, workers’ compensation, disability, annuity and retirement benefits, payments made pursuant to a retirement program, interest, and any other payments made by a person or an agency or department of the federal, state, or local government provided the income excludes:

(a) amounts required by law to be withheld, other than creditor claims, including, but not limited to, federal, state, and local taxes, social security and other retirement deductions, and disability contributions;

(b) amounts exempted by federal law;

(c) public assistance payments.

Any other state or local laws which limit or exempt income or the amount or percentage of income that can be withheld do not apply.

(~~5~~6) ‘Obligee’ means an individual or the individual’s assignee who is entitled to receive payments pursuant to an order of support.

(~~6~~7) ‘Obligor’ means an individual who is required to make payments pursuant to order for support.

(~~7~~8) ‘Order for support’ means any order of a court or an administrative agency of competent jurisdiction which provides for periodic payments of funds for the support of a child or maintenance of a spouse or former spouse, whether temporary or final, whether incidental to a proceeding for divorce, separation, separate maintenance, paternity, guardianship, or otherwise and includes any order providing for a modification of support payment of an arrearage or reimbursement of support.

(~~8~~9) ‘Payor’ means any payor of income to an obligor. For purposes of this section, the South Carolina Department of Employment and Workforce is not considered to be a payor.”

SECTION 2. Section 63‑17‑1420(C) and (D) of the 1976 Code is amended to read:

“(C) Income withholding must be initiated in all Title IV‑D cases upon the request of the obligee without the necessity of a delinquency, if the State approves the request in accordance with the procedures and standards as it may establish. If the obligee requests income withholding pursuant to this section, notice of the request must be provided to the obligor by the ~~clerk of court~~ authorized agency, and if the obligor objects to the income withholding within ten days after the postmarked date of the notice, a hearing must be held, and the family court shall subject the obligor’s income to withholding unless the court finds that there is good cause not to require immediate income withholding. Where there is no objection by the obligor after proper notice, the ~~clerk of court~~ authorized agency shall implement immediate income withholding.

(D) If an obligor, whose wages are not withheld and who is not required to pay through the family court, is found to be, or is found to have been, delinquent pursuant to an order for support in an amount equal to three or more month’s support obligation, the ~~clerk of court~~ authorized agency must order the obligor’s wages enrolled for wage withholding to begin immediately for the payment of the obligor’s support obligation, even if the arrearage has been fully or partially paid at the time of the hearing.”

SECTION 3. Section 63‑17‑1440(A) and (B) of the 1976 Code is amended to read:

“(A) If a delinquency occurs, the ~~clerk of court~~ authorized agency shall prepare, file, and serve on the obligor a verified notice of delinquency within fifteen calendar days of the delinquency if the obligor’s address is known or if the address is not known, within fifteen calendar days of locating the obligor. If the obligor makes payments pursuant to an order for support directly to the obligee and the obligee seeks income withholding, the notice of delinquency must be verified by the obligee and then served on the obligor by the ~~clerk of court~~ authorized agency as with any other notice of delinquency.

(B) The verified notice of delinquency must be served on the obligor by regular mail addressed to the obligor’s last known address or place of employment. Upon mailing the notice, the ~~clerk of court~~ authorized agency shall file a certificate of mailing stating the name and address to which the notice was mailed and the date on which it was mailed. If service cannot be effected as set forth in this section, the obligor may be served as prescribed for service in civil actions.”

SECTION 4. Section 63‑17‑1460(A), (E), (F), and (G) of the 1976 Code is amended to read:

“(A) Fifteen days following the mailing of the notice of the delinquency to the obligor and if no petition to stay service has been filed, the ~~clerk of court~~ authorized agency shall serve a notice to withhold on the payor or its agent by regular mail and may record the arrearage pursuant to Section 63‑17‑1600.

(E) The employer shall promptly pay the amount withheld to the State Disbursement Unit within seven working days of the date income is withheld, in accordance with the notice to withhold and in accordance with any notification received from the ~~clerk of court~~ authorized agency concerning withholding. The payor shall provide the date on which the income is withheld.

(F) After the obligor’s arrearage has been satisfied, the ~~clerk of court~~ authorized agency shall serve the payor by regular mail a notice of reduction of withholding. The notice shall inform the payor of the satisfied amount and direct the payor to discontinue withholding the additional amount as prescribed in the notice.

(G) Within twenty days after the obligor is no longer employed by the payor, the payor shall return a copy of the notice to withhold to the ~~clerk of court~~ authorized agency and shall notify the ~~clerk of court~~ authorized agency in writing of the date the obligor’s employment terminated, the date of the obligor’s final paycheck, the obligor’s home address, and obligor’s new employer and address, if known.”

SECTION 5. Section 63‑17‑1470 of the 1976 Code is amended to read:

“Section 63‑17‑1470. (A) The ~~clerk of court~~ authorized agency may suspend income withholding because of inability to deliver the income withheld to the obligee due to the obligee’s failure to provide a mailing address or other means of delivery. Upon relocating the obligee and upon meeting the requirements of notice and service pursuant to this article, income withholding must be reinstated.

(B) An obligor may petition the court at any time to terminate income withholding pursuant to a notice to withhold:

(1) if there is no longer a current order for support and all arrearages are paid; or

(2) if the obligor requests termination and withholding has not been terminated previously and subsequently reinstated and the obligor meets the conditions for an alternative arrangement.

However, if termination is granted and subsequently a delinquency occurs, the ~~clerk of court~~ authorized agency shall reinstate withholding procedures by complying with all requirements for notice and service pursuant to this article.

(C) The ~~clerk of court~~ authorized agency shall serve on the payor by regular mail a copy of any order entered pursuant to this section or Section 63‑17‑1450(D) that affects the duties of the payor. If service cannot be effected as set forth in this section, the payor may be served as prescribed for service in civil actions.

(D) The notice to withhold continues to be binding upon the payor until service of any order of the court entered under this section or Section 63‑17‑1450(D) or until notice is served on the payor by the ~~clerk of court~~ authorized agency that the underlying order is, for other reasons such as expiration of the support obligation, no longer in effect.”

SECTION 6. Section 63‑17‑1480 of the 1976 Code is amended to read:

“Section 63‑17‑1480. An obligee who is receiving income withholding payments under this article shall notify the ~~clerk of court~~ authorized agency of any change of address within seven days of the change.”

SECTION 7. Section 63‑17‑1500 of the 1976 Code is amended to read:

“Section 63‑17‑1500. An obligor whose income is being withheld or who has been served with a notice of delinquency pursuant to this article shall notify the ~~clerk of court~~ authorized agency of any new payor and of the availability of health insurance for any children for whom support is ordered within seven days after employment commences.”

SECTION 8. Section 63‑17‑1520 of the 1976 Code is amended to read:

“Section 63‑17‑1520. Upon receiving any other support payment including, but not limited to, a tax offset under federal or state law or any payment toward an arrearage, the Department of Social Services, within the time permitted by Title IV‑D of the Social Security Act, shall provide notice of the payment to the ~~clerk of court~~ authorized agency.”

SECTION 9. This act takes effect upon approval by the Governor.

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