

CHAPTER 159

HUMAN SERVICES - SOCIAL SERVICES

HOUSE BILL 95-1093

BY REPRESENTATIVES McElhany, Congrove, DeGette, Epps, Friednash, Hagedorn, Kreutz, Lamm, Lawrence, Morrison, Schwarz, Sullivan, and Swenson;
also SENATORS Hopper, Mares, and Pascoe.

AN ACT

**CONCERNING SUSPENSIONS OF DRIVERS' LICENSES BASED UPON NONPAYMENT OF CHILD SUPPORT,
AND MAKING AN APPROPRIATION THEREFOR.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 13 of title 26, Colorado Revised Statutes, 1989 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

26-13-123. Drivers' licenses - suspension for nonpayment of child support - repeal. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CHILD SUPPORT ORDER" MEANS ANY ADMINISTRATIVE OR COURT ORDER REQUIRING THE PAYMENT OF CHILD SUPPORT, CHILD SUPPORT ARREARS, CHILD SUPPORT DEBT, RETROACTIVE SUPPORT, OR MEDICAL SUPPORT, WHETHER OR NOT SUCH ORDER IS COMBINED WITH AN ORDER FOR MAINTENANCE.

(b) "DRIVER'S LICENSE" MEANS A LICENSE ISSUED BY THE DEPARTMENT OF REVENUE PURSUANT TO ARTICLE 2 OF TITLE 42, C.R.S., EXCEPT THOSE LICENSES ISSUED PURSUANT TO SECTION 42-2-401, C.R.S.

(c) "NOTICE OF COMPLIANCE" MEANS THE NOTICE ISSUED PURSUANT TO SUBSECTION (5) OF THIS SECTION THAT AN OBLIGOR IS IN COMPLIANCE WITH A CHILD SUPPORT ORDER.

(d) "NOTICE OF FAILURE TO COMPLY" MEANS THE NOTICE ISSUED PURSUANT TO SUBSECTION (4) OF THIS SECTION.

(e) "NOTICE OF NONCOMPLIANCE" MEANS THE NOTICE ISSUED PURSUANT TO

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

SUBSECTION (3) OF THIS SECTION THAT AN OBLIGOR IS NOT IN COMPLIANCE WITH A CHILD SUPPORT ORDER.

(f) "OBLIGOR" HAS THE SAME MEANING AS IN SECTION 26-13.5-102 (12).

(2) (a) THE STATE CHILD SUPPORT ENFORCEMENT AGENCY SHALL, AT LEAST ON AN ANNUAL BASIS, IDENTIFY AS OBLIGORS SUBJECT TO THE PROVISIONS OF THIS SECTION ANY PERSON WHO OWES THE FOLLOWING AND HAS FAILED TO EXECUTE AND COMPLY WITH THE TERMS OF AN AGREEMENT TO PAY:

(I) CHILD SUPPORT DEBT TO THE STATE PURSUANT TO SECTION 14-14-104, C.R.S.;

(II) ARREARAGES OR MEDICAL SUPPORT, AS REQUESTED AS PART OF AN ENFORCEMENT ACTION PURSUANT TO ARTICLE 5 OF TITLE 14, C.R.S.;

(III) CHILD SUPPORT ARREARAGES, RETROACTIVE CHILD SUPPORT, OR MEDICAL SUPPORT THAT IS THE SUBJECT OF ENFORCEMENT SERVICES PROVIDED PURSUANT TO SECTION 26-13-106.

(b) AN OBLIGOR IS SUBJECT TO THE PROVISIONS OF THIS SECTION TO THE EXTENT THAT ANY CHILD SUPPORT DEBT, ARREARAGE BALANCE, RETROACTIVE SUPPORT, OR MEDICAL SUPPORT IS OWED AND REMAINS OUTSTANDING.

(3) (a) AT LEAST ON AN ANNUAL BASIS, THE STATE CHILD SUPPORT ENFORCEMENT AGENCY SHALL ISSUE A WRITTEN NOTICE OF NONCOMPLIANCE TO ANY OBLIGOR IDENTIFIED IN SUBSECTION (2) OF THIS SECTION. THE NOTICE OF NONCOMPLIANCE SHALL INCLUDE THE NAME, DATE OF BIRTH, LAST-KNOWN ADDRESS, AND SOCIAL SECURITY NUMBER OF THE OBLIGOR AND SHALL BE SENT TO THE OBLIGOR'S LAST-KNOWN ADDRESS.

(b) THE NOTICE OF NONCOMPLIANCE SHALL INCLUDE THE FOLLOWING INFORMATION:

(I) THAT THE STATE CHILD SUPPORT ENFORCEMENT AGENCY'S RECORDS INDICATE THE OBLIGOR OWES A DUTY OF SUPPORT UNDER A CHILD SUPPORT ORDER;

(II) THAT THE STATE CHILD SUPPORT ENFORCEMENT AGENCY'S RECORDS INDICATE THE OBLIGOR HAS NOT COMPLIED WITH A CHILD SUPPORT ORDER; OR HAS A CHILD SUPPORT DEBT, CHILD SUPPORT ARREARAGE BALANCE, OR OWES RETROACTIVE CHILD SUPPORT; OR HAS FAILED TO PROVIDE THE CHILD MEDICAL SUPPORT PURSUANT TO A COURT OR ADMINISTRATIVE ORDER;

(III) THAT THE OBLIGOR HAS FAILED TO EXECUTE AN AGREEMENT TO REPAY THE CHILD SUPPORT DEBT OR CHILD SUPPORT ARREARAGE BALANCE OR TO REMAIN CURRENT ON THE REQUIRED CHILD SUPPORT PAYMENTS OR HAS FAILED TO ABIDE BY THE TERMS OF THE AGREEMENT IF AN AGREEMENT HAS BEEN EXECUTED BY THE OBLIGOR;

(IV) THAT THE OBLIGOR MAY, IN WRITING AND NO LATER THAN THIRTY DAYS AFTER THE DATE OF THE NOTICE, REQUEST AN ADMINISTRATIVE REVIEW TO OBJECT TO THE NOTICE OF NONCOMPLIANCE AND THAT FAILURE TO REQUEST SUCH A REVIEW

WITHIN THE TIME SPECIFIED SHALL RESULT IN THE ISSUANCE OF A NOTICE OF FAILURE TO COMPLY PURSUANT TO SUBSECTION (4) OF THIS SECTION;

(V) THAT THE SOLE GROUNDS FOR AN ADMINISTRATIVE REVIEW SHALL BE A MISTAKE IN THE IDENTITY OF THE OBLIGOR; A DISAGREEMENT REGARDING THE AMOUNT OF THE CHILD SUPPORT DEBT, ARREARAGE BALANCE, RETROACTIVE SUPPORT, OR MEDICAL SUPPORT; OR A SHOWING THAT ALL CHILD SUPPORT PAYMENTS WERE MADE WHEN DUE;

(VI) THAT THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT MUST CONDUCT AN ADMINISTRATIVE REVIEW WITHIN THIRTY DAYS AFTER RECEIPT OF THE OBLIGOR'S WRITTEN REQUEST; AND

(VII) THAT THE OBLIGOR MAY REQUEST IN WRITING AN ADMINISTRATIVE REVIEW FROM THE STATE CHILD SUPPORT ENFORCEMENT AGENCY WITHIN THIRTY DAYS AFTER THE DATE OF THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT'S DECISION.

(c) (I) NO LATER THAN THIRTY DAYS AFTER THE DATE OF THE NOTICE OF NONCOMPLIANCE, THE OBLIGOR MAY REQUEST IN WRITING THAT THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT CONDUCT AN ADMINISTRATIVE REVIEW PURSUANT TO RULES AND REGULATIONS DEVELOPED BY THE STATE BOARD OF HUMAN SERVICES TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE.

(II) NO LATER THAN THIRTY DAYS AFTER THE DATE OF THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT'S DECISION, THE OBLIGOR MAY REQUEST IN WRITING AN ADMINISTRATIVE REVIEW FROM THE STATE CHILD SUPPORT ENFORCEMENT AGENCY.

(III) THE SOLE GROUNDS TO BE DETERMINED AT THE ADMINISTRATIVE REVIEW SHALL BE A MISTAKE IN THE IDENTITY OF THE OBLIGOR; A DISAGREEMENT WITH THE AMOUNT OF THE CHILD SUPPORT DEBT, ARREARAGE BALANCE, RETROACTIVE SUPPORT, OR MEDICAL SUPPORT; OR A SHOWING THAT ALL CHILD SUPPORT PAYMENTS WERE MADE WHEN DUE.

(IV) THE DECISION OF THE STATE CHILD SUPPORT ENFORCEMENT AGENCY SHALL BE FINAL AGENCY ACTION AND MAY BE REVIEWED AS PROVIDED IN SECTION 24-4-106, C.R.S.

(V) A NOTICE OF FAILURE TO COMPLY PURSUANT TO SUBSECTION (4) OF THIS SECTION SHALL NOT BE SENT TO THE DEPARTMENT OF REVENUE UNLESS THE OBLIGOR HAS FAILED TO REQUEST A REVIEW WITHIN THE TIME SPECIFIED OR UNTIL A HEARING HAS BEEN CONCLUDED AND ALL RIGHTS OF REVIEW HAVE BEEN EXHAUSTED.

(4) AFTER THE RIGHTS OF REVIEW PURSUANT TO PARAGRAPH (c) OF SUBSECTION (3) OF THIS SECTION HAVE BEEN EXHAUSTED OR THE TIME WITHIN

WHICH SUCH REVIEW MAY BE REQUESTED HAS ELAPSED, THE STATE CHILD SUPPORT ENFORCEMENT AGENCY SHALL:

(a) ISSUE THE NOTICE OF FAILURE TO COMPLY TO THE DEPARTMENT OF REVENUE;
AND

(b) SEND A COPY OF SUCH NOTICE TO THE OBLIGOR TO THE OBLIGOR'S LAST-KNOWN ADDRESS.

(5) (a) UPON RECEIPT OF THE NOTICE OF FAILURE TO COMPLY FROM THE STATE CHILD SUPPORT ENFORCEMENT AGENCY, THE DEPARTMENT OF REVENUE SHALL SUSPEND THE OBLIGOR'S DRIVER'S LICENSE PURSUANT TO SECTION 42-2-127.5, C.R.S. SUCH SUSPENSION SHALL NOT BE GROUNDS FOR A HEARING OR ANY OTHER ADMINISTRATIVE REVIEW BY THE DEPARTMENT OF REVENUE. THE DEPARTMENT OF REVENUE SHALL REFER ALL REQUESTS FOR A HEARING REGARDING THE OBLIGOR'S CHILD SUPPORT ORDER TO THE STATE CHILD SUPPORT ENFORCEMENT AGENCY FOR REFERRAL TO THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT.

(b) THE DEPARTMENT OF REVENUE MAY ISSUE A PROBATIONARY DRIVER'S LICENSE PURSUANT TO SECTION 42-2-127.5, C.R.S.

(c) THE DEPARTMENT OF REVENUE SHALL ONLY REINSTATE A DRIVER'S LICENSE UPON RECEIPT OF A NOTICE OF COMPLIANCE FROM THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT THAT INDICATES THE OBLIGOR HAS COMPLIED WITH THE COURT OR ADMINISTRATIVE ORDER OR HAS AGREED UPON A PAYMENT PLAN APPROVED BY THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT. THE DELEGATE CHILD SUPPORT ENFORCEMENT UNIT IS NOT REQUIRED TO ISSUE A NOTICE OF COMPLIANCE BASED UPON APPROVAL OF A PAYMENT PLAN FOR AN OBLIGOR WHO HAS RECEIVED A SECOND NOTICE OF FAILURE TO COMPLY UNTIL SUCH OBLIGOR HAS COMPLIED WITH SUCH PAYMENT PLAN FOR AT LEAST THREE MONTHS.

(d) NOTHING IN THIS SECTION SHALL LIMIT THE ABILITY OF THE DEPARTMENT OF REVENUE TO REVOKE OR SUSPEND A LICENSE, OR TO TAKE ANY OTHER DISCIPLINARY ACTION AGAINST A DRIVER, ON ANY OTHER GROUNDS.

(e) THE DEPARTMENT OF REVENUE, OR ANY PERSON ACTING ON THE DEPARTMENT'S BEHALF, SHALL NOT BE LIABLE FOR ANY ACTIONS TAKEN TO SUSPEND THE OBLIGOR'S DRIVER'S LICENSE PURSUANT TO THIS SECTION.

(6) (a) THE STATE BOARD OF HUMAN SERVICES SHALL PROMULGATE RULES AND REGULATIONS, PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., AS ARE NECESSARY TO IMPLEMENT THIS SECTION.

(b) THE DEPARTMENT OF REVENUE IS AUTHORIZED TO PROMULGATE RULES AND REGULATIONS, PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S., AS MAY BE NECESSARY TO IMPLEMENT THIS SECTION.

(7) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 1998.

SECTION 2. Part 1 of article 2 of title 42, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

42-2-127.5. Authority to suspend license - violation of child support order - repeal. (1) THE DEPARTMENT SHALL SUSPEND THE LICENSE OF ANY DRIVER WHO IS NOT IN COMPLIANCE WITH A CHILD SUPPORT ORDER PURSUANT TO THE PROVISIONS OF THIS SECTION.

(2) UPON RECEIPT OF A NOTICE OF FAILURE TO COMPLY FROM THE STATE CHILD SUPPORT ENFORCEMENT AGENCY PURSUANT TO SECTION 26-13-123 (4), C.R.S., THE DEPARTMENT SHALL SEND WRITTEN NOTICE TO THE PERSON IDENTIFIED IN THE COURT ORDER THAT SUCH PERSON SHALL BE REQUIRED TO PROVIDE THE DEPARTMENT WITH PROOF OF COMPLIANCE WITH THE CHILD SUPPORT ORDER. SUCH PROOF SHALL BE IN THE FORM OF A NOTICE OF COMPLIANCE AS DEFINED IN SECTION 26-13-123 (1) (c), C.R.S.

(3) (a) IF A NOTICE OF COMPLIANCE IS NOT RECEIVED BY THE DEPARTMENT WITHIN THIRTY DAYS AFTER THE DATE WRITTEN NOTICE IS SENT PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE DEPARTMENT SHALL SUSPEND THE DRIVER'S LICENSE OF THE PERSON FROM WHOM PROOF IS REQUIRED AND MAY NOT REINSTATE SUCH LICENSE UNTIL PROOF IN THE FORM OF A NOTICE OF COMPLIANCE IS PROVIDED.

(b) THE DRIVER SHALL NOT HAVE A RIGHT TO A HEARING BEFORE LICENSE SUSPENSION PURSUANT TO THIS SUBSECTION (3), AND THE DRIVER'S RIGHT TO ANY HEARING SHALL BE LIMITED TO THE RIGHTS SET FORTH IN SECTION 26-13-123, C.R.S.

(4) IN THE EVENT THAT A DRIVER'S LICENSE IS SUSPENDED PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE DEPARTMENT MAY ISSUE A PROBATIONARY LICENSE FOR A PERIOD NOT TO EXCEED NINETY DAYS FROM THE DATE OF ISSUANCE, WHICH PROBATIONARY LICENSE SHALL RESTRICT THE DRIVER TO DRIVING TO AND FROM THE PLACE OF EMPLOYMENT OR TO PERFORMING DUTIES WITHIN THE COURSE OF THE DRIVER'S EMPLOYMENT. THE DEPARTMENT IS AUTHORIZED TO CHARGE A FEE FOR SUCH PROBATIONARY LICENSE THAT COVERS THE DIRECT AND INDIRECT COSTS OF ISSUING THE LICENSE.

(5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 1998.

SECTION 3. Future appropriations. Although no appropriation is included in this act for the fiscal year beginning July 1, 1995, it appears that this act will require appropriations for subsequent fiscal years, and the amount required to be appropriated for the fiscal year beginning July 1, 1996, is estimated to be three hundred fifty-eight thousand fifty-eight dollars (\$358,058). Of this amount, three hundred thirty-five thousand eight hundred forty-five dollars (\$335,845) shall be for the department of human services and consist of eleven thousand eight hundred ninety-nine dollars (\$11,899) from the general fund, one hundred two thousand two hundred eighty-eight dollars (\$102,288) from cash funds from local governments, and two hundred twenty-one thousand six hundred fifty-eight dollars (\$221,658) from federal funds. The remaining twenty-two thousand two hundred thirteen dollars (\$22,213) shall be for the department of revenue and come from the highway user's tax fund.

SECTION 4. Effective date. This act shall take effect July 1, 1995.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 22, 1995