

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION

CHAPTER 479  
HOUSE BILL 1292

AN ACT TO PROVIDE RELIEF TO CLERKS OF COURT IN HANDLING CHILD  
SUPPORT CASES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-13.9 (d) reads as rewritten:

"(d) In a non-IV-D case, when an obligor fails to make a required payment of child support and is in arrears, the clerk of superior court shall mail by regular mail to the last known address of the obligor a notice of delinquency. The notice shall set out the amount of child support currently due and shall demand immediate payment of said amount. The notice shall also state that failure to make immediate payment will result in the issuance by the court of an enforcement order requiring the obligor to appear before a district court judge and show cause why the support obligation should not be enforced by income withholding, contempt of court, or other appropriate means. Failure to receive the delinquency notice shall not be a defense in any subsequent proceeding. If Sending the notice of delinquency shall be in the discretion of the clerk if the clerk has, during the previous 12 months, sent a notice or notices of delinquency to the obligor for nonpayment, or if income withholding has been implemented against the obligor or the obligor has been previously found in contempt for nonpayment under the same child support order, sending the notice of delinquency shall be in the discretion of the clerk.

If the arrearage is not paid in full within 21 days after the mailing of the delinquency notice, ~~or is not paid within 30 days after the obligor becomes delinquent if the clerk has elected not to send a delinquency notice, the clerk without waiting the 21 days if the clerk has elected not to mail a delinquency notice for any of the reasons provided herein, the clerk~~ shall cause an enforcement order to be issued and shall issue a notice of hearing before a district court judge. The enforcement order shall order the obligor to appear and show cause why he should not be subjected to income withholding or adjudged in contempt of court, or both, and shall order the obligor to bring to the hearing records and information relating to his employment and the amount and sources of his disposable income. The enforcement order shall state:

- (1) That the obligor is under a court order to provide child support, the name of each child for whose benefit support is due, and information sufficient to identify the order;
- (2) That the obligor is delinquent and the amount of overdue support;
- (3) That the court may order income withholding if the obligor is delinquent in an amount equal to the support due for one month;

- (4) That income withholding, if implemented, will apply to the obligor's current payors and all subsequent payors and will be continued until terminated pursuant to G.S. 110-136.10;
- (5) That failure to bring to the hearing records and information relating to his employment and the amount and sources of his disposable income will be grounds for contempt;
- (6) That if income withholding is not an available or appropriate remedy, the court may determine whether the obligor is in contempt of whether any other enforcement remedy is appropriate.

The enforcement order may be signed by the clerk or a district court judge, and shall be served on the obligor pursuant to G.S. 1A-1, Rule 4, Rules of Civil Procedure. The clerk shall also notify the party to whom support is owed of the pending hearing. The clerk may withdraw the order to the supporting party upon receipt of the delinquent payment. On motion of the person to whom support is owed, with the approval of the district court judge, if he finds it is in the best interest of the child, no enforcement order shall be issued.

When the matter comes before the court, the court shall proceed as in the case of a motion for income withholding under G.S. 110-136.5. If income withholding is not an available or adequate remedy, the court may proceed with contempt, imposition of a lien, or other available, appropriate enforcement remedies.

This subsection shall apply only to non-IV-D cases, except that the clerk shall issue an enforcement order in a IV-D case when requested to do so by an IV-D obligee."

Sec. 2. This act shall become effective January 1, 1990.

In the General Assembly read three times and ratified this the 27th day of June, 1989.