

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 216

Short Title: Child Support/Tax Intercept.

(Public)

Sponsors: Senator Marvin.

Referred to: Judiciary II.

March 11, 1991

A BILL TO BE ENTITLED

AN ACT TO INCLUDE INCOME TAX OFFSET AS A REMEDY FOR THE ENFORCEMENT OF CHILD SUPPORT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 50-13.4(f) reads as rewritten:

"(f) Remedies for enforcement of support of minor children shall be available as herein provided.

(1) The court may require the person ordered to make payments for the support of a minor child to secure the same by means of a bond, mortgage or deed of trust, or any other means ordinarily used to secure an obligation to pay money or transfer property, or by requiring the execution of an assignment of wages, salary or other income due or to become due.

(2) If the court requires the transfer of real or personal property or an interest therein as provided in subsection (e) as a part of an order for payment of support for a minor child, or for the securing thereof, the court may also enter an order which shall transfer title as provided in G.S. 1A-1, Rule 70 and G.S. 1-228.

(3) The remedy of arrest and bail, as provided in Article 34 of Chapter 1 of the General Statutes, shall be available in actions for child-support payments as in other cases.

(4) The remedies of attachment and garnishment, as provided in Article 35 of Chapter 1 of the General Statutes, shall be available in an action for child-support payments as in other cases, and for such purposes the

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1 child or person bringing an action for child support shall be deemed a
2 creditor of the defendant. Additionally, in accordance with the
3 provisions of G.S. 110-136, a continuing wage garnishment
4 proceeding for wages due or to become due may be instituted by
5 motion in the original child support proceeding or by independent
6 action through the filing of a petition.

7 (5) The remedy of injunction, as provided in Article 37 of Chapter 1 of the
8 General Statutes and G.S. 1A-1, Rule 65, shall be available in actions
9 for child support as in other cases.

10 (6) Receivers, as provided in Article 38 of Chapter 1 of the General
11 Statutes, may be appointed in action for child support as in other cases.

12 (7) A minor child or other person for whose benefit an order for the
13 payment of child support has been entered shall be a creditor within
14 the meaning of Article 3 of Chapter 39 of the General Statutes
15 pertaining to fraudulent conveyances.

16 (8) A judgment for child support shall not be a lien against real property
17 unless the judgment expressly so provides, sets out the amount of the
18 lien in a sum certain, and adequately describes the real property
19 affected; but past due periodic payments may by motion in the cause
20 or by a separate action be reduced to judgment which shall be a lien as
21 other judgments.

22 (9) An order for the periodic payments of child support is enforceable by
23 proceedings for civil contempt, and its disobedience may be punished
24 by proceedings for criminal contempt, as provided in Chapter 5A of
25 the General Statutes.

26 Notwithstanding the provisions of G.S. 1-294, an order for the
27 payment of child support which has been appealed to the appellate
28 division is enforceable in the trial court by proceedings for civil
29 contempt during the pendency of the appeal. Upon motion of an
30 aggrieved party, the court of the appellate division in which the appeal
31 is pending may stay any order for civil contempt entered for child
32 support until the appeal is decided, if justice requires.

33 (10) The remedies provided by Chapter 1 of the General Statutes, Article
34 28, Execution; Article 29B, Execution Sales; and Article 31,
35 Supplemental Proceedings, shall be available for the enforcement of
36 judgments for child support as in other cases, but amounts so payable
37 shall not constitute a debt as to which property is exempt from
38 execution as provided in Article 16 of Chapter 1C of the General
39 Statutes.

40 (10a) The remedy of income tax offset, as provided in Chapter 105A of the
41 General Statutes, shall be available in all child support cases enforced
42 by the Department of Human Resources under Title IV, Part D of the
43 Social Security Act. The remedy provided in this subdivision shall be

- 1 in addition to and not in substitution for any remedy otherwise
2 available.
3 (11) The specific enumeration of remedies in this section shall not
4 constitute a bar to remedies otherwise available."
5 Sec. 2. This act is effective upon ratification.