

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 60
SENATE BILL 11

AN ACT TO CLARIFY PROCEDURES FOR IMPLEMENTING INCOME
WITHHOLDING PURSUANT TO A SUPPORTING PARTY'S REQUEST.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-136.5 is amended by rewriting subsections (a) and (b) to read:

"(a) Withholding based on arrearage. Notwithstanding any other provision of law, when an obligor is delinquent in an amount equal to the support payable for one month, the obligee may apply to the court, by motion or in an independent action, for an order for income withholding.

- (1) The motion or complaint shall be verified and state, to the extent known:
 - a. that the obligor is under a court order to provide child support, and information sufficient to identify the order;
 - b. that the obligor is delinquent in an amount equal to the support payable for one month;
 - c. the amount of overdue support and the total amount sought to be withheld;
 - d. the name of each child for whose benefit support is due; and
 - e. the name, location, and mailing address of the payor or payors from whom withholding is sought and the amount of the obligor's monthly disposable income from each payor.
- (2) The motion or complaint shall include or be accompanied by a notice to the obligor, stating:
 - a. that withholding, if implemented, will apply to the obligor's current payors and all subsequent payors; and
 - b. that withholding, if implemented, will be continued until terminated pursuant to G.S. 110-136.10.

At any time the parties may agree to income withholding by consent order.

(b) Withholding based on obligor's request. The obligor may request at any time that income withholding be implemented. The request may be made either verbally in open court or by written request.

- (1) A written request for withholding shall state:
 - a. that the obligor is under a court order to provide child support, and information sufficient to identify the order;

- b. whether the obligor is delinquent and the amount of any overdue support;
 - c. the name of each child for whose benefit support is payable;
 - d. the name, location, and mailing address of the payor or payors from whom the obligor receives disposable income and the amount of the obligor's monthly disposable income from each payor;
 - e. that the obligor understands that 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; and
 - f. that the obligor understands that the amount withheld will include an amount sufficient to pay current child support, an additional amount toward liquidation of any arrearages, and a two dollar (\$2.00) processing fee to be retained by the employer for each withholding, but that the total amount withheld may not exceed the following percent of disposable income:
 - forty percent (40%) if there is only one order for withholding;
 - forty-five percent (45%) if there is more than one order for withholding and the obligor is supporting other dependent children or his or her spouse; or
 - fifty percent (50%) if there is more than one order for withholding and the obligor is not supporting other dependent children or a spouse.
- (2) A written request for withholding shall be filed in the office of the clerk of superior court to which the obligor is directed to make child support payments. If the request states and the clerk verifies that the obligor is not delinquent, the court may enter an order for withholding without further notice or hearing. If the request states or the clerk finds that the obligor is delinquent, the matter shall be scheduled for hearing unless the obligor in writing waives his right to a hearing and consents to the entry of an order for withholding of an amount the court determines to be appropriate. The court may require a hearing in any case. Notice of any hearing under this subdivision shall be sent to the obligee."

Sec. 2. This act shall become effective October 1, 1987.

In the General Assembly read three times and ratified this the 10th day of April, 1987.