

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 302  
Committee Substitute Favorable 4/22/99  
Third Edition Engrossed 4/27/99  
Senate Children & Human Resources Committee Substitute Adopted 6/1/99  
Fifth Edition Engrossed 6/23/99  
Sixth Edition Engrossed 6/29/99

Short Title: Enhance Child Support Enforce./AB.

(Public)

\_\_\_\_\_  
Sponsors:

\_\_\_\_\_  
Referred to:

March 4, 1999

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE GENERAL STATUTES PERTAINING TO CHILD  
3 SUPPORT ENFORCEMENT.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 110-132(a), as amended by Section 1 of S.L. 1998-17, reads as  
6 rewritten:

7 "(a) In lieu of or in conclusion of any legal proceeding instituted to establish  
8 paternity, the written acknowledgment of paternity executed by the putative father of the  
9 dependent child when accompanied by a written affirmation of paternity executed and  
10 sworn to by the mother of the dependent child shall constitute an admission of ~~paternity,~~  
11 paternity and shall have the same legal effect as a judgment of paternity for the purpose  
12 of establishing a child support obligation, subject to the right of either signatory to  
13 rescind within the earlier of:

14 (1) 60 days of the date the document is executed, or

1           (2)    The date of entry of an order establishing paternity or an order for the  
2                    payment of child support.

3           In order to rescind, a challenger must request the district court to order the rescision  
4 and to include in the order specific findings of fact that the request for rescision was filed  
5 with the clerk of court within 60 days of the signing of the document. The court must also  
6 find that all parties, including the child support enforcement agency, if appropriate, have  
7 been served in accordance with Rule 4 of the North Carolina Rules of Civil Procedure. In  
8 the event the court orders rescision and the putative father is thereafter found not to be the  
9 father of the child, then the clerk of court shall send a copy of the order of rescision to the  
10 State Registrar of Vital Statistics. Upon receipt of an order of rescision, the State Registrar  
11 shall remove the putative father's name from the birth certificate. In the event that the  
12 putative father defaults or fails to present or prosecute the issue of paternity, the trial  
13 court shall find the putative father to be the biological father as a matter of law.

14          After 60 days have elapsed, execution of the document may be challenged in court  
15 only upon the basis of fraud, duress, mistake, or excusable neglect. The burden of proof  
16 shall be on the challenging party, and the legal responsibilities, including child support  
17 obligations, of any signatory arising from the executed documents may not be suspended  
18 during the challenge except for good cause shown.

19          A written agreement to support the child by periodic payments, which may include  
20 provision for reimbursement for medical expenses incident to the pregnancy and the birth  
21 of the child, accrued maintenance and reasonable expense of prosecution of the paternity  
22 action, when acknowledged as provided herein, filed with, and approved by a judge of  
23 the district court at any time, shall have the same force and effect as an order of support  
24 entered by that court, and shall be enforceable and subject to modification in the same  
25 manner as is provided by law for orders of the court in such cases. The written  
26 affirmation shall contain the social security number of the person executing the  
27 affirmation, and the written acknowledgment shall contain the social security number of  
28 the person executing the acknowledgment. Voluntary agreements to support shall contain  
29 the social security number of each of the parties to the agreement. The written  
30 affirmations, acknowledgments and agreements to support shall be sworn to before a  
31 certifying officer or notary public or the equivalent or corresponding person of the state,  
32 territory, or foreign country where the affirmation, acknowledgment, or agreement is  
33 made, and shall be binding on the person executing the same whether the person is an  
34 adult or a minor. The child support enforcement agency shall ensure that the mother and  
35 putative father are given oral and written notice of the legal consequences and  
36 responsibilities arising from the signing of an acknowledgement of paternity, and of any  
37 alternatives to the execution of an acknowledgment or affirmation of paternity. The  
38 mother shall not be excused from making the affirmation on the grounds that it may tend  
39 to disgrace or incriminate her; nor shall she thereafter be prosecuted for any criminal act  
40 involved in the conception of the child as to whose paternity she makes affirmation."

41          Section 2. G.S. 110-142.2(b), as amended by Section 1 of S.L. 1998-17, reads  
42 as rewritten:

1       "(b) Upon finding that the individual has willfully failed to comply with the child  
2 support order or with a subpoena issued pursuant to child support proceedings, and that  
3 the obligor is at least 90 days in arrears, or upon a finding that an individual subject to a  
4 subpoena issued pursuant to child support or paternity establishment proceedings has  
5 failed to comply with the subpoena, the court may enter an order instituting the sanctions  
6 as provided in subsection (a) of this section. If an individual is adjudicated to be in civil  
7 or criminal contempt for a third or subsequent time for failure to comply with a child  
8 support order, the court shall enter an order instituting any one or more of the sanctions,  
9 if applicable, as provided in subsection (a) of this section. The court may stay the  
10 effectiveness of the sanctions upon conditions requiring the obligor to make full payment  
11 of the delinquency over time. Any court-ordered payment plan under this subsection  
12 shall require the individual to extinguish the delinquency within a reasonable period of  
13 time. In determining the amount to be applied to the delinquency, the court shall  
14 consider the amount of the debt and the individual's financial ability to pay. The payment  
15 shall not exceed the limits under G.S. 110-136.6(b). The individual shall make an  
16 immediate initial payment representing at least five percent (5%) of the total delinquency  
17 or five hundred dollars (\$500.00), whichever is less. Any stay of an order under this  
18 subsection shall also be conditioned upon the obligor's maintenance of current child  
19 support. The court may stay the effectiveness of the sanctions against an individual  
20 subject to a subpoena issued pursuant to child support or paternity establishment  
21 proceedings upon a finding that the individual has complied with or is no longer subject  
22 to the subpoena. Upon entry of an order pursuant to this section that is not stayed, the  
23 individual shall surrender any licenses revoked by the court's order to the child support  
24 enforcement agency and the agency shall forward a report to the appropriate licensing  
25 authority within 30 days of the order."

26       Section 3. G.S. 50-13.4(c) reads as rewritten:

27       "(c) Payments ordered for the support of a minor child shall be in such amount as to  
28 meet the reasonable needs of the child for health, education, and maintenance, having due  
29 regard to the estates, earnings, conditions, accustomed standard of living of the child and  
30 the parties, the child care and homemaker contributions of each party, and other facts of  
31 the particular case. Payments ordered for the support of a minor child shall be on a  
32 monthly basis, due and payable on the first day of each month. The requirement that  
33 orders be established on a monthly basis does not affect the availability of garnishment of  
34 disposable earnings based on an obligor's pay period.

35       The court shall determine the amount of child support payments by applying the  
36 presumptive guidelines established pursuant to subsection (c1). However, upon request of  
37 any party, the Court shall hear evidence, and from the evidence, find the facts relating to  
38 the reasonable needs of the child for support and the relative ability of each parent to  
39 provide support. If, after considering the evidence, the Court finds by the greater weight  
40 of the evidence that the application of the guidelines would not meet or would exceed the  
41 reasonable needs of the child considering the relative ability of each parent to provide  
42 support or would be otherwise unjust or inappropriate the Court may vary from the  
43 guidelines. If the court orders an amount other than the amount determined by application

1 of the presumptive guidelines, the court shall make findings of fact as to the criteria that  
2 justify varying from the guidelines and the basis for the amount ordered.

3 Payments ordered for the support of a child shall terminate when the child reaches the  
4 age of 18 except:

5 (1) If the child is otherwise emancipated, payments shall terminate at that  
6 time;

7 (2) If the child is still in primary or secondary school when the child  
8 reaches age 18, support payments shall continue until the child  
9 graduates, otherwise ceases to attend school on a regular basis, fails to  
10 make satisfactory academic progress towards graduation, or reaches age  
11 20, whichever comes first, unless the court in its discretion orders that  
12 payments cease at age 18 or prior to high school graduation.

13 In the case of graduation, or attaining age 20, payments shall terminate without order  
14 by the court, subject to the right of the party receiving support to show, upon motion and  
15 with notice to the opposing party, that the child has not graduated or attained the age of  
16 20."

17 Section 4. G.S. 50-13.4(d) reads as rewritten:

18 "(d) In non-IV-D cases, payments for the support of a minor child shall be ordered  
19 to be paid to the person having custody of the child or any other proper person, agency,  
20 organization or institution, or to the ~~court~~, State Child Support Collection and  
21 Disbursement Unit, for the benefit of the child. In IV-D cases, payments for the support  
22 of a minor child shall be ordered to be paid to the ~~court or other proper State agency~~ Child  
23 Support Collection and Disbursement Unit for the benefit of the child."

24 Section 5. G.S. 52C-5-501(a), as amended by Section 1 of S.L. 1998-17, reads  
25 as rewritten:

26 "(a) An income-withholding order issued in another state may be sent to the person  
27 or entity defined or identified as the obligor's employer under the income-withholding  
28 provisions of Chapter 50 or Chapter 110 of the General Statutes, as applicable, without  
29 first filing a petition or comparable pleading or registering the order with a tribunal of  
30 this State. In the event that an obligor is receiving unemployment compensation benefits  
31 from the North Carolina Employment Security Commission, in accordance with G.S. 96-  
32 17, an income-withholding order issued in another state may be sent to the Employment  
33 Security Commission without first filing a petition or comparable pleading or registering  
34 the order with a tribunal of this State. Upon receipt of the order, the employer or the  
35 Employment Security Commission shall:

36 (1) Treat an income-withholding order issued in another state which  
37 appears regular on its face as if it had been issued by a tribunal of this  
38 State;

39 (2) Immediately provide a copy of the order to the obligor; and

40 (3) Distribute the funds as directed in the withholding order. The  
41 Employment Security Commission shall not withhold an amount to  
42 exceed twenty-five percent (25%) of the unemployment compensation  
43 benefits."

1 Section 6. G.S. 110-136.2(f) reads as rewritten:

2 "(f) In the absence of a voluntary assignment of unemployment compensation  
3 benefits, the Department of Health and Human Services shall implement income  
4 withholding as provided in this Article for IV-D cases. The amount withheld shall not  
5 exceed twenty-five percent (25%) of the unemployment compensation benefits. Notice of  
6 the requirement to withhold shall be served upon the Employment Security Commission  
7 and payment shall be made by the Employment Security Commission directly to the  
8 Department of Health and Human Services pursuant to G.S. ~~96-17-96-17~~ or to another  
9 state under G.S. 52C-5-501. Except for the requirement to withhold from unemployment  
10 compensation benefits and the forwarding of withheld funds to the Department of Health  
11 and Human Services, ~~Services~~ or to another state under G.S. 52C-5-501, the Employment  
12 Security Commission is exempt from the provisions of G.S. 110-136.8."

13 Section 7. Article 9 of Chapter 110 of the General Statutes is amended by  
14 adding a new section to read:

15 "**§ 110-139.3. High-volume, automated administrative enforcement in interstate**  
16 **cases (AEI).**

17 Upon request of another state, the Department of Health and Human Services shall  
18 use automated data processing to search State databases and determine if information is  
19 available regarding a parent who owes a child support obligation and shall seize  
20 identified assets using the same techniques as used in intrastate cases. Any request by  
21 another state to enforce support orders shall certify the amount of each obligor's debt and  
22 that appropriate due process requirements have been met by the requesting state with  
23 respect to each obligor. The Department of Health and Human Services shall likewise  
24 transmit to other states requests for assistance in enforcing support orders through high-  
25 volume, automated administrative enforcement where appropriate."

26 Section 8. G.S. 108A-69, as amended by Section 1 of S.L. 1998-17, reads as  
27 rewritten:

28 "**§ 108A-69. Employer obligations.**

29 (a) As used in this section and in G.S. 108A-70:

30 (1) 'Health benefit plan' means an accident and health insurance policy or  
31 certificate; a nonprofit hospital or medical service corporation contract;  
32 a health maintenance organization subscriber contract; a plan provided  
33 by a multiple employer welfare arrangement; the Teachers' and State  
34 Employees' Comprehensive Major Medical Plan under Chapter 135 of  
35 the General Statutes; or a plan provided by another benefit arrangement.  
36 'Health benefit plan' does not mean a Medicare supplement policy as  
37 defined in G.S. 58-54-1(5).

38 (2) 'Health insurer' means any health insurance company subject to Articles  
39 1 through 63 of Chapter 58 of the General Statutes, including a multiple  
40 employee welfare arrangement, and any corporation subject to Articles  
41 65 and 67 of Chapter 58 of the General Statutes; ~~and means~~ a group  
42 health plan, as defined in Section 607(1) of the Employee Retirement  
43 Income Security Act of ~~1974-1974~~; and the Teachers' and State

1                    Employees' Comprehensive Major Medical Plan under Chapter 135 of  
2                    the General Statutes.

3            (b) If a parent is required by a court or administrative order to provide health  
4 benefit plan coverage for a child, and the parent is eligible for family health benefit plan  
5 coverage through an ~~employer doing business in this State, employer,~~ the employer:

6            (1) Must allow the parent to enroll, under family coverage, the child if the  
7 child would be otherwise eligible for coverage without regard to any  
8 enrollment season restrictions.

9            (2) Must enroll the child under family coverage upon application of the  
10 child's other parent or upon receipt of notice from the Department of  
11 Health and Human Services in connection with its administration of the  
12 Medical Assistance or Child Support Enforcement Program if the parent  
13 is enrolled but fails to make application to obtain coverage for the child.

14           (3) May not disenroll or eliminate coverage of the child unless:

15           a. The employer is provided satisfactory written evidence that:

- 16                    1. The court or administrative order is no longer in effect; or
- 17                    2. The child is or will be enrolled in comparable health  
18 benefit plan coverage that will take effect not later than  
19 the effective date of disenrollment; or

20           b. The employer has eliminated family health benefit plan coverage  
21 for all of its employees.

22           (4) Must withhold from the employee's compensation the employee's share,  
23 if any, of premiums for health benefit plan coverage, not to exceed the  
24 maximum amount permitted to be withheld under section 303(b) of the  
25 federal Consumer Credit Protection Act, as amended; and must pay this  
26 amount to the health insurer; subject to regulations, if any, adopted by  
27 the Secretary of the U.S. Department of Health and Human Services."

28           Section 9. G.S. 58-51-115(a) reads as rewritten:

29           "(a) As used in this section and in G.S. 58-51-120 and G.S. 58-51-125:

30           (1) 'Health benefit plan' means any accident and health insurance policy or  
31 certificate; a nonprofit hospital or medical service corporation contract;  
32 a health maintenance organization subscriber contract; a plan provided  
33 by a multiple employer welfare arrangement; the Teachers' and State  
34 Employees' Comprehensive Major Medical Plan under Chapter 135 of  
35 the General Statutes; or a plan provided by another benefit arrangement.  
36 'Health benefit plan' does not mean a Medicare supplement policy as  
37 defined in G.S. 58-54-1(5).

38           (2) 'Health insurer' means any health insurance company subject to Articles  
39 1 through 63 of this Chapter, including a multiple employee welfare  
40 arrangement, and any corporation subject to Articles 65 and 67 of this  
41 Chapter; ~~and means~~ a group health plan, as defined in section 607(1) of  
42 the Employee Retirement Income Security Act of ~~1974.~~ 1974; and the

1 Teachers' and State Employees' Comprehensive Major Medical Plan  
2 under Chapter 135 of the General Statutes."

3 Section 10. G.S. 15A-1344.1(a) reads as rewritten:

4 "(a) When the court requires, as a condition of supervised or unsupervised  
5 probation, that a defendant support his children, the court may order at any time that  
6 support payments be made to the clerk of court for remittance to the party entitled to  
7 receive the payments. For child support orders initially entered on or after January 1,  
8 1994, the immediate income withholding provisions of G.S. 110-136.5(c1) ~~shall~~ apply. If  
9 child support is to be paid through income withholding, the payments shall be made in  
10 accordance with G.S. 110-139(f)."

11 Section 11. G.S. 50-13.9(a) reads as rewritten:

12 "(a) Upon its own motion or upon motion of either party, the court may order at any  
13 time that support payments be made to the ~~clerk of court~~ State Child Support Collection  
14 and Disbursement Unit for remittance to the party entitled to receive the payments. For  
15 child support orders initially entered on or after January 1, 1994, the immediate income  
16 withholding provisions of G.S. 110-136.5(c1) ~~shall~~ apply."

17 Section 12. G.S. 50-13.9(b) reads as rewritten:

18 "(b) After entry of ~~such an order by the court,~~ court under subsection (a) of this  
19 section, the clerk of superior court State Child Support Collection and Disbursement Unit  
20 shall transmit child support payments that are made to the clerk in IV-D cases to the  
21 Department of Health and Human Services for appropriate distribution. In all other cases, the  
22 clerk shall transmit the payments it to the custodial parent or other party entitled to receive  
23 them, unless a court order requires otherwise."

24 Section 13. G.S. 50-13.9(b2) reads as rewritten:

25 "(b2) In a non-IV-D case:

26 (1) The clerk of court shall have the responsibility and authority for  
27 monitoring the obligor's compliance with all child support orders in the  
28 case and for initiating any enforcement procedures that it considers  
29 appropriate. The State Child Support Collection and Disbursement Unit  
30 shall notify the clerk of court of all payments made in non-IV-D cases  
31 so that the clerk of court can initiate enforcement proceedings as  
32 provided in subsection (d) of this section.

33 (2) The clerk of court shall maintain all official records in the case.

34 (3) The clerk of court shall maintain any other records needed to monitor  
35 the obligor's compliance with or to enforce the child support orders in  
36 the case, including records showing the amount of each payment of  
37 child support received from or on behalf of the obligor, along with the  
38 dates on which each payment was received."

39 Section 14. G.S. 50-13.9(d) reads as rewritten:

40 "(d) In a non-IV-D case, when the clerk of superior court is notified by the State  
41 Child Support Collection and Disbursement Unit that an obligor fails ~~has failed~~ to make a  
42 required payment of child support and is in arrears, the clerk of superior court shall mail  
43 by regular mail to the last known address of the obligor a notice of delinquency. The

1 notice shall set out the amount of child support currently due and shall demand  
2 immediate payment of ~~said~~ that amount. The notice shall also state that failure to make  
3 immediate payment will result in the issuance by the court of an enforcement order  
4 requiring the obligor to appear before a district court judge and show cause why the  
5 support obligation should not be enforced by income withholding, contempt of court,  
6 revocation of licensing privileges, or other appropriate means. Failure to receive the  
7 delinquency notice ~~shall~~ is not be a defense in any subsequent proceeding. Sending the  
8 notice of delinquency ~~shall be~~ is in the discretion of the clerk if the clerk has, during the  
9 previous 12 months, sent a notice or notices of delinquency to the obligor for  
10 nonpayment, or if income withholding has been implemented against the obligor or the  
11 obligor has been previously found in contempt for nonpayment under the same child  
12 support order.

13 If the arrearage is not paid in full within 21 days after the mailing of the delinquency  
14 notice, or without waiting the 21 days if the clerk has elected not to mail a delinquency  
15 notice for any of the reasons provided ~~herein~~, in this subsection, the clerk shall cause an  
16 enforcement order to be issued and shall issue a notice of hearing before a district court  
17 judge. The enforcement order shall order the obligor to appear and show cause why ~~he~~  
18 the obligor should not be subjected to income withholding or adjudged in contempt of  
19 court, or both, and shall order the obligor to bring to the hearing records and information  
20 relating to ~~his~~ the obligor's employment, ~~his~~ the obligor's licensing privileges, and the  
21 amount and sources of ~~his~~ the obligor's disposable income. The enforcement order shall  
22 state:

- 23 (1) That the obligor is under a court order to provide child support, the  
24 name of each child for whose benefit support is due, and information  
25 sufficient to identify the order;
- 26 (2) That the obligor is delinquent and the amount of overdue support;
- 27 (2a) That the court may order the revocation of some or all of the obligor's  
28 licensing privileges if the obligor is delinquent in an amount equal to the  
29 support due for one month;
- 30 (3) That the court may order income withholding if the obligor is delinquent  
31 in an amount equal to the support due for one month;
- 32 (4) That income withholding, if implemented, will apply to the obligor's  
33 current payors and all subsequent payors and will be continued until  
34 terminated pursuant to G.S. 110-136.10;
- 35 (5) That failure to bring to the hearing records and information relating to  
36 his employment and the amount and sources of his disposable income  
37 will be grounds for contempt;
- 38 (6) That if income withholding is not an available or appropriate remedy,  
39 the court may determine whether the obligor is in contempt or whether  
40 any other enforcement remedy is appropriate.

41 The enforcement order may be signed by the clerk or a district court judge, and shall be  
42 served on the obligor pursuant to G.S. 1A-1, Rule 4, Rules of Civil Procedure. The clerk  
43 shall also notify the party to whom support is owed of the pending hearing. The clerk



1 may withdraw the order to the supporting party upon receipt of the delinquent payment.  
2 On motion of the person to whom support is owed, with the approval of the district court  
3 judge, if the district court judge finds it is in the best interest of the child, no enforcement  
4 order shall be issued.

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

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

11 Section 15. G.S. 50-13.10(e) reads as rewritten:

12 "(e) When a child support payment ~~which that~~ is to be made to ~~a clerk of superior~~  
13 ~~court the State Child Support Collection and Disbursement Unit~~ is not received by ~~the~~  
14 ~~clerk the Unit~~ when due, the payment is not a past due child support payment for purposes  
15 of this section, and no arrearage accrues, if the payment is actually made to and received  
16 on time by the party entitled to receive it and ~~such that~~ receipt is evidenced by a canceled  
17 check, money order, or contemporaneously executed and dated written receipt. Nothing  
18 in this section shall affect the duties of the clerks or the IV-D agency under this Chapter  
19 or Chapter 110 of the General Statutes with respect to payments not received by ~~them the~~  
20 Unit on time, but the court, in any action to enforce such a payment, may enter an order  
21 directing the clerk or the IV-D agency to enter the payment on ~~his the clerk's or IV-D~~  
22 agency's records as having been made on time, if the court finds that the payment was in  
23 fact received by the party entitled to receive it as provided in this subsection."

24 Section 16. G.S. 110-36.3 is amended by adding a new subsection to read:

25 "(d1) Employment Verifications. – For the purpose of establishing or modifying a  
26 child support order, the amount of the obligor's gross income may be established by a  
27 written statement signed by the obligor's employer or the employer's designee or an  
28 Employee Verification form produced by the Automated Collections Tracking System  
29 that has been completed and signed by the obligor's employer or the employer's designee.  
30 A written statement signed by the employer of the obligor or the employer's designee that  
31 sets forth an obligor's gross income, as well as an Employee Verification form signed by  
32 the obligor's employer or the employer's designee, shall be admissible evidence in any  
33 action establishing or modifying a child support order."

34 Section 17. G.S. 110-136(d) reads as rewritten:

35 "(d) Upon receipt of an order of garnishment, the garnishee shall transmit without  
36 delay to the ~~clerk of superior court~~ State Child Support Collection and Disbursement Unit  
37 the amount ordered by the court to be garnished. These funds shall be disbursed to the  
38 party designated by the court which in those cases of dependent children receiving public  
39 assistance shall be the North Carolina Department of Health and Human Services."

40 Section 18. G.S. 110-136.5(b) reads as rewritten:

41 "(b) Withholding Based on Obligor's Request. The obligor may request at any time  
42 that income withholding be implemented. The request may be made either verbally in  
43 open court or by written request.

- 1 (1) A written request for withholding shall state:  
2 a. That the obligor is under a court order to provide child support,  
3 and information sufficient to identify the order;  
4 b. Whether the obligor is delinquent and the amount of any overdue  
5 support;  
6 c. The name of each child for whose benefit support is payable;  
7 d. The name, location, and mailing address of the payor or payors  
8 from whom the obligor receives disposable income and the  
9 amount of the obligor's monthly disposable income from each  
10 payor;  
11 e. That the obligor understands that withholding, if implemented,  
12 will apply to the obligor's current payors and all subsequent  
13 payors and will be continued until terminated pursuant to G.S.  
14 110-136.10; and  
15 f. That the obligor understands that the amount withheld will  
16 include an amount sufficient to pay current child support, an  
17 additional amount toward liquidation of any arrearages, and a  
18 two dollar (\$2.00) processing fee to be retained by the employer  
19 for each withholding, but that the total amount withheld may not  
20 exceed the following percent of disposable income:  
21 1. Forty percent (40%) if there is only one order for  
22 withholding;  
23 2. Forty-five percent (45%) if there is more than one order  
24 for withholding and the obligor is supporting other  
25 dependent children or his or her spouse; or  
26 3. Fifty percent (50%) if there is more than one order for  
27 withholding and the obligor is not supporting other  
28 dependent children or a spouse.

29 (2) A written request for withholding shall be filed in the office of the clerk  
30 of superior court ~~to which the obligor is directed to make child support~~  
31 ~~payments of the court that entered the order for child support.~~ If the  
32 request states and the clerk verifies that the obligor is not delinquent, the  
33 court may enter an order for withholding without further notice or  
34 hearing. If the request states or the clerk finds that the obligor is  
35 delinquent, the matter shall be scheduled for hearing unless the obligor  
36 in writing waives his right to a hearing and consents to the entry of an  
37 order for withholding of an amount the court determines to be  
38 appropriate. The court may require a hearing in any case. Notice of any  
39 hearing under this subdivision shall be sent to the obligee."

40 Section 19. G.S. 110-136.8(b), as amended by Section 1 of S.L. 1998-17 and  
41 Section 7 of S.L. 1998-176, reads as rewritten:

42 "(b) Payor's responsibilities. A payor who has been properly served with a notice to  
43 withhold is required to:

- 1 (1) Withhold from the obligor's disposable income and, within 7 business  
2 days of the date the obligor is paid, send to the ~~clerk of superior court or~~  
3 ~~State collection and disbursement unit, as specified in the notice, State Child~~  
4 ~~Support Collection and Disbursement Unit~~ the amount specified in the  
5 notice and the date the amount was withheld, but in no event more than  
6 the amount allowed by G.S. 110-136.6; however, if a lesser amount of  
7 disposable income is available for any pay period, the payor shall either:  
8 ~~(a)~~  
9 a. ~~compute~~ Compute, and send the appropriate amount to the ~~clerk of~~  
10 ~~court, State Child Support Collection and Disbursement Unit,~~  
11 using the percentages as provided in G.S. ~~110-136.6, 110-136.6;~~  
12 or ~~(b)~~  
13 b. ~~request~~ Request the initiating party to inform the payor of the  
14 proper amount to be withheld for that period;
- 15 (2) Continue withholding until further notice from the IV-D agency, the  
16 clerk of superior court, or the ~~State collection and disbursement unit; Child~~  
17 ~~Support Collection and Disbursement Unit;~~
- 18 (3) Withhold for child support before withholding pursuant to any other  
19 legal process under State law against the same disposable income;
- 20 (4) Begin withholding from the first payment due the obligor in the first pay  
21 period that occurs 14 days following the date the notice of the obligation  
22 to withhold was served on the payor;
- 23 (5) Promptly notify the obligee in a IV-D case, or the clerk of superior court  
24 or the ~~State collection and disbursement unit Child Support Collection and~~  
25 ~~Disbursement Unit~~ in a non-IV-D case, in writing:  
26 a. If there are one or more orders of child support withholding for  
27 the obligor;  
28 a1. If there are one or more orders of alimony or postseparation  
29 support withholding for the obligor;  
30 b. When the obligor terminates employment or otherwise ceases to  
31 be entitled to disposable income from the payor, and provide the  
32 obligor's last known address, and the name and address of his  
33 new employer, if known;  
34 c. Of the payor's inability to comply with the withholding for any  
35 reason; and
- 36 (6) Cooperate fully with the initiating party in the verification of the amount  
37 of the obligor's disposable income."

38 Section 20. G.S. 110-136.8(d) reads as rewritten:

39 "(d) The payor may combine amounts withheld from obligors' disposable incomes  
40 in a single payment to ~~each clerk of superior court~~ the State Child Support Collection and  
41 Disbursement Unit if the payor separately identifies by name and case number the portion  
42 of the single payment attributable to each individual obligor and the date that each  
43 payment was withheld from the obligor's disposable income."

1 Section 21. G.S. 110-136.9 reads as rewritten:

2 **"§ 110-136.9. Payment of withheld funds.**

3 In ~~IV-D all~~ cases, ~~when required by federal or State law or regulations or by court~~  
4 ~~order, the clerk of superior court shall transmit payments received from payors to the~~  
5 ~~Department of Health and Human Services for appropriate distribution. In all other cases,~~  
6 ~~unless a court order requires otherwise, the clerk of superior court shall transmit the~~  
7 ~~payments to the custodial parent. the State Child Support Collection and Disbursement~~  
8 ~~Unit shall distribute payments received from payors to the appropriate recipient."~~

9 Section 22. G.S. 110-139(f) reads as rewritten:

10 "(f) There is established the State Child Support Collection and Disbursement Unit.  
11 The duties of the Unit shall be the collection and disbursement of payments under support  
12 orders for:

13 (1) ~~All IV-D cases, and~~

14 (2) ~~All non-IV-D cases in which the support order was initially issued in~~  
15 ~~this State on or after January 1, 1994, and in which the income of the~~  
16 ~~noneustodial parent is subject to income withholding.~~

17 for all cases. The Department may administer and operate the Unit or may contract with  
18 another State or private entity for the administration and operation of the Unit."

19 Section 23. G.S. 15A-1344.1 reads as rewritten:

20 **"§ 15A-1344.1. Procedure to insure payment of child support.**

21 (a) When the court requires, as a condition of supervised or unsupervised  
22 probation, that a defendant support his children, the court may order at any time that  
23 support payments be made to the ~~clerk of court~~ State Child Support Collection and  
24 Disbursement Unit for remittance to the party entitled to receive the payments. For child  
25 support orders initially entered on or after January 1, 1994, the immediate income  
26 withholding provisions of G.S. 110-136.5(c1) shall apply.

27 (b) After entry of such an order by the court, the clerk of court shall maintain  
28 records listing the amount of payments, the date payments are required to be made, and  
29 the names and addresses of the parties affected by the order.

30 (c) The parties affected by the order shall inform the clerk of court and the State  
31 Child Support Collection and Disbursement Unit of any change of address or of other  
32 condition that may affect the administration of the order. The court may provide in the  
33 order that a defendant failing to inform the court and the State Child Support Collection  
34 and Disbursement Unit of a change of address within reasonable period of time may be  
35 held in violation of probation.

36 (d) When a defendant in a non-IV-D case, as defined in G.S. 110-129, fails to  
37 make required payments of child support and is in arrears, upon notification by the State  
38 Child Support Collection and Disbursement Unit the clerk of superior court may mail by  
39 regular mail to the last known address of the defendant a notice of delinquency ~~which~~  
40 ~~shall set that sets~~ out the amount of child support currently due and ~~which shall demand that~~  
41 ~~demands~~ immediate payment of ~~said the~~ amount. Failure to receive the delinquency  
42 notice ~~shall is~~ not be a defense in any probation violation hearing or other proceeding  
43 thereafter. If the arrearage is not paid in full within 21 days after the mailing of the

1 delinquency notice, or is not paid within 30 days after the defendant becomes delinquent  
2 if the clerk has elected not to send a delinquency notice, the clerk shall certify the amount  
3 due to the district attorney and probation officer, who shall initiate proceedings for  
4 revocation of probation pursuant to Article 82 of Chapter 15A or make a motion in the  
5 criminal case for income withholding pursuant to G.S. 110-136.5 or both.

6 When a defendant in a IV-D case, as defined in G.S. 110-129, fails to make required  
7 payments of child support and is in arrears, at the request of the IV-D obligee the clerk  
8 shall certify the amount due to the district attorney and probation officer, who shall  
9 initiate proceedings for revocation of probation pursuant to Article 82 of Chapter 15A or  
10 make a motion in the criminal case for income withholding pursuant to G.S. 110-136.5 or  
11 both."

12 Section 24. This act becomes effective October 1, 1999. The mandatory  
13 sanctions under G.S. 110-142.2(b), as amended by this act, apply when an obligor is  
14 adjudicated to be in civil or criminal contempt for a third or subsequent time after this act  
15 becomes effective.