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License Restrictions and Child Support

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With state agencies collecting only around 20 percent of owed child support, states are struggling to find better ways to enforce orders. A recent study in Minnesota found that many parents delinquent on child support were current on house and car payments. This study and others like it confirm what many experts have long suspected--a lot of parents don't pay child support because they simply don't want to, not because they can't.

For the better part of the decade, states have been experimenting with solutions to the problem of "won't pay" parents. One very successful enforcement tool has been restricting, revoking or suspending the licenses of parents who do not fulfill their obligations. Several states, including Maine, Illinois and Vermont, pioneered the development of state license restriction programs in the early 1990s.

The early success of these programs prompted Congress to require, as part of the 1996 federal child support reforms, that all states have similar license restriction laws. States must have laws granting agencies or courts authority to withhold, suspend or restrict driver's, professional, occupational and recreational licenses of individuals who owe overdue child support or who fail, after receiving notice, to comply with subpoenas or warrants in such cases. By the end of 1998, 49 states and the District of Columbia had laws in place to restrict driver's and occupational licenses, 50 states and the District of Columbia had similar laws applying to professional licenses, and 48 states and the District of Columbia had laws restricting recreational and sporting licenses. Some states have aggressively used and promoted these programs, while others have applied these new laws more selectively.

Before passage of some technical amendments in 1997, the federal child support mandates addressed restrictions on only commercial, not personal, driver's licenses. As a result, a few states, including Nebraska, enacted this more limited version. Other states expanded the group of affected licenses. Oregon's law specifically applies to bar operators, and Idaho's includes licenses for concealed weapons. Several states, such as Arkansas, Louisiana, Pennsylvania, and Vermont, note the inclusion of attorney licenses in their professional license category. Arizona excludes all hunting and fishing licenses that are not automated, and Maine excludes licenses to engage in the banking business.

State laws vary widely in setting the threshold that triggers a license suspension. Arkansas, Montana and New Jersey require that the delinquent parent be at least six months behind in child support payments before a license may be affected. In Arizona and Kansas, a contempt order is sufficient to trigger a license suspension, while Indiana requires a three-month delinquency or \$2,000 arrearage.

Some states set different triggers depending on which license is affected. Florida law mandates only a 30-day arrearage before suspending a driver's license, but directs that suspension of other licenses should be used only as a last resort if all other enforcement mechanisms have failed. Vermont lawmakers took a contrary approach, requiring only one month of arrears before restricting business and professional licenses, but at least two months for driver's licenses.

In some states, such as Alabama, Delaware, Kentucky and Montana, the administrative agency may issue the order for restriction, suspension or revocation. Other states, including Arizona, Connecticut, Maryland and New Mexico, give the authority to the state courts. In states such as Florida, Minnesota and Mississippi, the process is both administrative and judicial, depending on the type of case (welfare or nonwelfare) or type of license. Many states, including Alaska, Georgia, Illinois and Iowa, permit administrative actions on license restrictions coupled with the opportunity for judicial review.

Some states include protections for the licensing agencies or the delinquent parents in their legislation. Colorado, New Jersey and Pennsylvania all extended limited immunity to administrators who restrict licenses as required by law. New Jersey and Pennsylvania also included specific provisions forbidding insurance companies from increasing rates based on a license restriction stemming from a child support obligation. Finally, Idaho, Michigan, and Pennsylvania extended their license restriction penalties to custodial parents who interfere with the other parent's visitation rights.

State officials dealing with license restriction programs acknowledge occasional obstacles. Some states have discovered that the threat of losing a license is not taken seriously by delinquent parents, who continue to drive or work in violation of the law. Lack of automated records is another common problem that particularly affects recreational and sporting licenses. For example, a judge or administrator may revoke a hunting license, but if the records are not automated, the noncompliant parent can simply purchase a new license that same afternoon from one of hundreds of vendors in the state. Child support administrators in states that require a court order to suspend or restrict a license also commonly complain that the judiciary is reluctant to issue those orders. As a result, parents receiving warning notices frequently disregard them. Finally, some legislators admit to concerns about possible legal challenges to these laws. State courts in Alaska recently heard the first court challenge to a state license restriction law. In September, the Supreme Court of Alaska reversed a lower court decision and found the state driver's license revocation law constitutional. This decision should provide some reassurance to state officials.

In spite of these problems, most states running aggressive license restriction programs are claiming significant increases in collections as a result.

- Since the program's beginning in August 1993, 18,257 targeted parents in Maine have paid more than \$89 million in overdue support. Maine authorities have suspended 1,573 licenses, but have reinstated 757 of them as parents came into compliance with their child support obligations.
- South Dakota officials negotiated approximately 4,000 repayment agreements but suspended only seven licenses during the first two years of its license restriction program.
- Maryland officials have sent letters to suspend or restrict nearly 58,000 licenses since October 1996 and collected more than \$40 million in response.
- Texas collected more than \$12.6 million during the first six months of its license restriction program.
- A cost-benefit analysis conducted by North Dakota authorities in 1996 attributed a seven percent increase in collections directly to the license restriction law.

The success of so many of these state programs suggests that they will continue to be a useful tool in collecting and enforcing child support.

Selected References

Myers, Teresa. "Child Support Enforcement: State Legislation in Response to the 1996 Federal Welfare Reform Act," *State Legislative Report*, National Conference of State Legislatures, September 1998.

"State License Restrictions, Suspensions & Revocations." Office of Child Support Enforcement, Administration for Children and Families, U.S. Department of Health and Human Services, DCL-98-35, April 15, 1998. Available on the Internet at <http://www.acf.dhhs.gov/programs/cse/pol/dcl9835.htm>

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