DEPARTMENT OF HUMAN RESOURCES CHILD SUPPORT ENFORCEMENT ADMINISTRATIVE CODE

CHAPTER 660-3-9
LICENSE WITHHOLDING, RESTRICTION, SUSPENSION AND REVOCATION

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660-3-9-.01 Definition Of License Withholding, Restriction, Suspension And Revocation.

Provision is made to withhold, restrict the use of, suspend, or revoke licenses for failure to pay support, or failure to comply with subpoenas or warrants relating to paternity or child support proceedings, and to establish criteria for reissuing the licenses.

(1) When a noncustodial parent (NCP) accumulates an arrearage equal to or greater than six months support payments (does not have to be consecutive months), or fails to comply with subpoenas or warrants relating to paternity or child support proceedings, the Department may seek to have the NCP's Alabama license withheld, restricted, suspended or subsequently revoked. Statute applies to support ordered by a court of this or any other state, territory, or district of the United States, including support ordered by any administrative agency having the authority to issue a support order.

(a) The arrearage which determines qualification for withholding, restricted use, suspension, or revocation of a license is based upon current support obligations due (including child and spousal support).

(b) Withholding, restriction, suspension and revocation do not apply to a noncustodial parent who is paying support and arrearages according to the terms of a court order.

(2) Alabama statute gives the following specific terms and definitions:

(a) Court - A court of competent jurisdiction or administrative agency having the authority to issue and enforce support orders.

(b) Delinquent or Delinquency - A support debt or support obligation due and unpaid in an amount equal to or greater than six month support payments as of the date of service of a notice of intent to suspend or revoke a license.

(c) Department - The Alabama Department of Human Resources, including the county department of human resources.

(d) License - Any license, certificate, registration, or authorization issued by a licensing authority which grants a person a right or privilege to engage in an occupational, professional, sporting, recreational activity, or to operate a motor vehicle.

(e) Licensee - The holder of a license.

(f) Licensing Authority – Any department, division, board, agency, or instrumentality of the State of Alabama or its political subdivisions that issues a license.

(g) Obligee (CP) - Either of the following:

1. A person to whom support benefits are ordered by the court.

2. A public agency of this or another state that has the right to receive support payments or otherwise is providing support enforcement services under Title IV-D of the Social Security Act. The term shall include the department.

(h) Obligor (NCP) - A person ordered by a court to make periodic payments for the benefit and support of another person or child.

(i) Support or Support Order - Support of a minor child and spousal support when the spousal support is collected pursuant to the requirements of Title IV-D of the Social Security Act. Support order shall mean any order, decree, or judgment for the support of a child, or in the case of an order being enforced pursuant to the requirements of Title IV-D of the Social Security Act, a spouse, or former spouse, issued by a court or other entity authorized to issue the orders.

Author: Clifford Smith
Statutory Authority: P.L. 93-647; 42 U.S.C. 651 et seq.; Section 9 of P.L. 96-611; 42 U.S.C. 663; 45 C.F.R. 205-235, 301-306;

Section 2640 of P.L. 98-369; Section 171(a)(3) of P.L. 97-248; Section 2333(c) of P.L. 97-35; P.L.98-378; ALABAMA STATE PLAN - CHILD SUPPORT ENFORCEMENT PROGRAM; Code of Ala. 1975, as amended, §§30-4-80 through -98, 38-2-6, 38-2-6(1), 38-10-1 through -11, 40-18-100 through -109, 30-3-170 through 30-3-179.
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660-3-9-.02 Notification.

(1) Withholding, restricting the use of, suspension of a license. Upon an administrative determination that there is a delinquency or a failure to comply with subpoenas or warrants relating to paternity or child support proceedings, a written notice of intent to withhold, restrict the use of, or suspend a license shall be issued. The notice of intent shall inform the noncustodial parent that his/her license will be withheld, restricted, or suspended sixty (60) days after service of the notice unless the noncustodial parent: (1) Pays the entire support debt stated in the notice; or (2) Enters into a payment plan approved by the Department or its agent; or (3) Complies with subpoenas or warrants relating to paternity or child support proceedings; or (4) Requests an administrative hearing within 15 days of receipt of the notification.

(2) Revocation of a license. Upon the third finding of a delinquency, a license may be revoked if the noncustodial parent has received two license suspensions within the previous twelve months. In such cases, written notice of intent to revoke a license shall be issued. The notice of intent shall inform the NCP that his/her license will be revoked sixty (60) days after service of a notice unless the NCP: (1) Pays the entire support debt stated in the Notice; or (2) Enters into a payment plan approved by the Department or its agent; or (3) Complies with subpoenas or warrants relating to paternity or child support proceedings; or (4) Requests an administrative hearing within 15 days of receipt of the notification.

(3) Failure to Respond to Notification. After 60 days from date of verified certified service, the licensing authority will be sent a notice to withhold, restrict the use of, suspend or revoke (whichever is appropriate) the NCP's license.

(4) Written notice of intent may be served upon NCP by:

(a) personal service by a law enforcement officer, or other authorized process server or

(b) certified mail return receipt requested,

(c) as otherwise provided in the Alabama Rules of Civil Procedure.

Author: Clifford Smith
Statutory Authority: P.L. 93-647; 42 U.S.C. 651 et seq.; Section 9 of P.L. 96-611; 42 U.S.C. 663; 45 C.F.R. 205-235, 301-306; Section 2640 of P.L. 98-369; Section 171(a)(3) of P.L. 97-248; Section 2333(c) of P.L. 97-35; P.L. 98-378; ALABAMA STATE PLAN - CHILD SUPPORT ENFORCEMENT PROGRAM; Code of Ala. 1975, as amended, §§30-4-80 through -98, 38-2-6, 38-2-6(1), 38-10-1 through -11, 40-18-100 through -109, 30-3-170 through 30-3-179.
History: **New Rule:** Filed June 6, 1997; effective July 9, 1997. **Amended:** Filed September 4, 2002; effective October 9, 2002.

660-3-9-.03 Payment Plan.

(a) To avoid withholding, restricted use, suspension or revocation, the NCP may enter into a payment plan to pay an immediate lump sum payment and increase ongoing payments to liquidate the remaining arrearages and interest owed. The payment plan does not supersede or amend an order of the court for repayment of arrearages. Current support must be paid in accordance with existing terms.

(b) Acceptable payment plan terms:

1. An acceptable lump sum payment will be an amount which is at least twice the amount of current monthly support.

2. In addition to the lump sum payment, the NCP must agree to an ongoing payment plan which will satisfy the total arrears and interest due. If there is an existing court order which specifies an amount to be paid periodically towards arrears, this amount will be presumed to be appropriate. A higher amount is acceptable.

3. If there is no specified amount ordered by the court to satisfy arrears, a minimum of at least 25% of the current monthly support obligation amount due will be considered acceptable. This payment will be in addition to the regular child support obligation.

4. The agreement to repay does not preclude the Department from using other methods available under Alabama law to satisfy the remaining amount due.

(c) If the NCP and the Department fail to reach a negotiated payment plan, the Department will proceed with the withholding, restricted use, suspension or revocation process.

(d) If the NCP fails to abide by the payment plan, the Department will take action to withhold, restrict the use of suspend or revoke the license.
Author: Clifford Smith
Statutory Authority: P.L. 93-647; 42 U.S.C. 651 et seq.; Section 9 of P.L. 96-611; 42 U.S.C. 663; 45 C.F.R. 205-235, 301-306; Section 2640 of P.L. 98-369; Section 171(a)(3) of P.L. 97-248; Section 2333(c) of P.L. 97-35; P.L. 98-378; ALABAMA STATE PLAN - CHILD SUPPORT ENFORCEMENT PROGRAM; Code of Ala. 1975, as amended, §§30-4-80 through -98, 38-2-6, 38-2-6(1), 38-10-1 through -11, 40-18-100 through -109, 30-3-170 through 30-3-179.
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Amended: Filed August 12, 2013; effective September 16, 2013.

660-3-9-.04 Request For A Hearing.

(1) A hearing request must be made in writing within fifteen days from the date of receipt of notification of intent to withhold, restrict the use of, suspend or revoke a license. The NCP can request an administrative hearing to show cause why the withholding, restricted use, suspension or revocation is not appropriate. Upon receipt of the request for a hearing, action to withhold, restrict the use of, suspend or revoke the NCP's license will be halted pending the outcome of the hearing. An attempt will be made to resolve the dispute prior to a hearing through a telephone interview or personal interview, which will be referred to as an administrative (desk) review. These activities do not impact the NCP's right to a hearing.

(a) The hearing can only be for the purpose of contesting the determination by the department that: (1) The NCP is at least six months delinquent in child support payments,(2) The NCP has not entered into a payment plan approved by the Department, (3) the NCP has failed to comply with a subpoena or warrant relating to a paternity or child support case, or (4) withholding, restricting the use of, suspension or revocation of the license is appropriate (i.e., wrong person, the support debt or support obligation due and unpaid does not equal or exceed six months support payments, etc., are not found).

(b) When the NCP requests a hearing to contest the notice and is alleging a mistake has occurred, the NCP must provide documentation to support his/her claim.

(c) The department will not receive (accept) or consider any evidence at the hearing with respect to the appropriateness of the support order or the NCP's ability to comply with the support order.

(d) If the NCP fails to request a hearing within 15 days of receipt of the notification; or fails to appear at a scheduled hearing, his/her defenses, objections or request for a payment plan shall be considered to be without merit and the Department shall enter a final decision accordingly. The Department will proceed with the withholding, restricted use, suspension, or revocation.

(e) If the dispute is resolved prior to the hearing, the NCP should follow normal procedures in withdrawing the request for a hearing.

(f) In general, all other provisions of the hearing will follow the Alabama Administrative Procedure Act and procedures specified in the Department's administrative hearing rules.

(2) Judicial Review

(a) The NCP must file the notice of appeal and a cost bond with the Department within thirty (30) days of receipt of the hearing decision. The NCP may file the petition for review in the Circuit Court of Montgomery County or the Circuit Court of the county where (s)he resides. Filing of the notice of appeal results in an automatic stay of withholding, restriction, suspension or revocation of the NCP's license pending the outcome of the appeal.

(b) Unless the Department is notified within thirty (30) days that the NCP has met the requirements for seeking a judicial review as required by law, the Department shall send notification to withhold, restrict the use of, suspend, or revoke the license to the licensing authority. A determination of the Department is independent of any proceeding of the licensing authority to withhold, restrict the use of, suspend, revoke, deny, terminate, renew, or issue a license.

Author: Clifford Smith
Statutory Authority: P.L. 93-647; 42 U.S.C. 651 et seq.; Section 9 of P.L. 96-611; 42 U.S.C. 663; 45 C.F.R. 205-235, 301-306; Section 2640 of P.L. 98-369; Section 171(a)(3) of P.L. 97-248; Section 2333(c) of P.L. 97-35; P.L. 98-378; ALABAMA STATE PLAN - CHILD SUPPORT ENFORCEMENT PROGRAM; Code of Ala. 1975, as amended, §§30-4-80 through -98, 38-2-6, 38-2-6(1), 38-10-1 through -11, 40-18-100 through -109, 30-3-170 through 30-3-179.
History: New Rule: Filed June 4, 1997; effective July 9, 1997.
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660-3-9-.05 Reinstatement.

(a) The NCP's license will remain withheld, restricted, suspended or revoked until the Department sends notice requesting reinstatement of the license to the licensing authority. While the

license is suspended or revoked, the licensing authority may not issue, reissue or renew the NCP's license. Notice to the licensing authority to reinstate the license shall not limit the Department to issue a new decision and notice in the event of another delinquency.

(b) Withheld, restricted, or suspended License

1. After withholding, restricted use, or suspension, the NCP may either pay the arrearage and interest in full; or enter into a satisfactory payment plan with the Department. Refer to Rule 660-3-9-.03 concerning the Payment Plan.

2. Good faith must be shown before the Department will notify the licensing authority to reinstate a license. Good faith means the support debt or support obligation has been paid in full or a satisfactory payment plan has been negotiated. If the NCP pays the total debt or enters into a payment plan approved by the Department, upon the request of the NCP, the Department shall notify the licensing authority to reinstate the NCP's license.

3. If the NCP subsequently becomes delinquent in support payments according to the payment plan, a new notice of withholding, restricted use, or suspension may be sent to the NCP.

(c) Revoked License

1. After the NCP's license has been revoked, the NCP may request reinstatement of the license. The NCP may obtain a new license if: (1) The Department makes a determination that the obligation is paid in full; or (2) a satisfactory payment plan is in place and the NCP is complying with the plan. Refer to Rule 660-3-9-.03 concerning the Payment Plan.

2. At the request of the NCP, the Department should determine if one of the above conditions is met. If so, the Department should notify the licensing authority to issue a new license pursuant to the statutes or regulations governing reissuance of a license.

Author: Clifford Smith
Statutory Authority: P.L. 93-647; 42 U.S.C. 651 et seq.; Section 9 of P.L. 96-611; 42 U.S.C. 663; 45 C.F.R. 205-235, 301-306; Section 2640 of P.L. 98-369; Section 171(a)(3) of P.L. 97-248; Section 2333(c) of P.L. 97-35; P.L. 98-378; ALABAMA STATE PLAN - CHILD SUPPORT ENFORCEMENT PROGRAM; Code of Ala. 1975, as amended, §§30-4-80 through -98, 38-2-6, 38-2-6(1), 38-10-1 through -11, 40-18-100 through -109, 30-3-170 through 30-3-179.
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660-3-9-A **Appendix (Repealed 11/14/20).**

ATTACHMENT
RULE 660-3-9-.01

CHILD SUPPORT ENFORCEMENT DIVISION
FORMS
(REPEALED 11/14/22)

Author: Alabama Department of Human Resources
Statutory Authority:
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