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NEW PENALTIES FOR FAILURE TO PAY CHILD SUPPORT

1997 Wisconsin Act 191, passed by the legislature and signed by Governor Tommy Thompson to take effect on May 1, 1998, significantly expands sanctions for failure to pay court-ordered payments for child or family support. Its enactment brings Wisconsin into compliance with federal law and enables the state to receive the Temporary Assistance for Needy Families (TANF) block grants that help finance the Wisconsin Works (W-2) welfare program.

BACKGROUND

Prior to enactment of Act 191 (1997 Senate Bill 494), when a person failed to pay court-ordered support, the court had the options of garnishing wages, suspending the individual's driver's license, ordering fines and detention, or withholding income tax refunds. Act 191 broadens sanctions to permit state agencies to deny state-issued licenses and credentials. It also allows the seizure of property and financial assets.

As required by federal law, the state had already developed a statewide database to track court-ordered support payments, and this listing will be used to facilitate agency action under Act 191, when payments are delinquent. "Support", as defined by the new law, includes amounts owed for child or family support, maintenance, medical expenses of a child, and birth expenses.

DENIAL OF LICENSES AND CREDENTIALS

Under Act 191, state agencies must suspend or refuse to issue or renew a wide range of licenses and credentials if the state-maintained database indicates support arrearages. Examples of these licenses and credentials include:

- Professional and occupational credentials for accountants; architects; engineers; barbers and cosmetologists; physicians, nurses and other medical practitioners; funeral directors; pharmacists; veterinarians; psychologists, social workers and counselors; and several other occupations.
The law requires consideration of whether denial is likely to have an adverse effect on public health, safety and welfare or the environment and how it will affect others, such as employees of the delinquent individual.
- Driver's licenses and motor vehicle dealer's licenses. (An occupational license may be issued to permit driving to and from work.)
- Hunting, trapping and fishing licenses.
- Licenses to practice law (if the Wisconsin Supreme Court agrees).
- Licenses for public school teachers and administrators.
- Licenses or credentials for lobbyists, collection agents, investment brokers or advisors, and insurance agents.

STATEWIDE DELINQUENCY DATABASE

The Department of Workforce Development (DWD) maintains the statewide database of persons required by court order to pay support and the status of their payments. Based on social security number, it will certify to license-issuing agencies whether an applicant for a new or renewed license is delinquent.

Before an individual is placed on the delinquency list, DWD must mail a notice warning the person of the impending action and the right to a hearing in circuit court. If the person fails to make a timely request for a hearing, a second notice is mailed, which states the person has been placed on the list and offers a second opportunity for a court hearing. The license-issuing agency must mail a third notice informing the person that adverse action has been taken. To be removed from the delinquency list or avoid being named on the list, an individual must pay the full amount owed or arrange a payment plan with DWD or the county child support agency.

DWD may subpoena financial records and other documents or request any information necessary for child support collection. Failure to respond may result in a forfeiture. In addition, DWD may order genetic tests to determine paternity, and the order may be enforced in court. DWD must report child support arrearages to a consumer reporting agency for inclusion on the person's credit history.

SEIZURE OF PROPERTY, FINANCIAL ASSETS AND PENSIONS

Under Act 191, if a person fails to pay court-ordered support "that amount becomes a lien in favor of the department [DWD] upon all property of the person." The department may seize or place a lien on real estate, financial assets and personal property, including motor vehicles, boats, household furnishings and other personal possessions. DWD maintains a statewide support lien docket, and the lien becomes effective when notice of a docket listing is delivered to the register of deeds in the county where the property is located. DWD also notifies persons listed on the docket that they may satisfy the lien by paying the full amount owed or may delay enforcement action by making alternative payment arrangements. The law provides various processes for review and appeal in cases where persons who are obligated to pay support question the amount of delinquent payments recorded on the docket.

DWD may notify a person owing delinquent support payments that it intends to ask the Wisconsin Department of Employee Trust Funds or the administrator of any other government or private pension plan to withhold the amount owed from any lump sum pension payment due the individual from the retirement plan. Such an action is subject to judicial review if requested by the individual.

FOR MORE INFORMATION

For copies of 1997 Wisconsin Act 191 or relevant sections of the Wisconsin Statutes, contact the Legislative Reference Bureau at (608) 266-0342. For further information about the program, contact the Department of Workforce Development, Bureau of Child Support, at (608) 266-9909, the appropriate license-issuing department or county child support agency.