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H.85

Introduced by Representatives LaLonde of South Burlington and Viens of
Newport City

Referred to Committee on

Date:

Subject: Domestic relations; annulment and divorce; child support

Statement of purpose of bill as introduced: This bill proposes to permit the
Office of Child Support to use electronic means to notify an individual
regarding administrative actions concerning enforcement of a child
support order.

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An act relating to electronic notice procedures for child support orders

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 15 V.S.A. § 663 is amended to read:

§ 663. SUPPORT ORDERS; REQUIRED CONTENTS

(a) Every order for child support made or modified under this chapter shall
be issued in a standardized format and sent to the registry in the ~~office of child~~
~~support~~ Office of Child Support. The order shall include:

(1) ~~The~~ the name, address, Social Security number, e-mail address,
telephone number, and employer of both parents;

1 (2) ~~The~~ the name and address of children who are the subject of the
2 order;

3 (3) ~~An~~ an annualized amount of child support;

4 (4) ~~Frequency~~ frequency of the child support payment;

5 (5) ~~Total~~ total arrearages, if any, and the periodic amount ordered for
6 payment of arrearages; and

7 (6) ~~Any~~ any other information which may affect the obligation to pay
8 child support.

9 (b) Child care costs shall be specifically stated in the order for the purpose
10 of providing information on the amount of child care costs used to compute the
11 total support obligation.

12 (c) Every order for child support made or modified under this chapter on or
13 after July 1, 1990, shall:

14 (1) include an order for immediate wage withholding or, if not subject to
15 immediate wage withholding, include a statement that wage withholding will
16 take effect under the expedited procedure set forth in section 782 of this title;

17 (2) require payments to be made to the registry in the ~~office of child~~
18 ~~support~~ Office of Child Support unless subject to an exception under
19 33 V.S.A. § 4103;

20 (3) require that every party to the order must notify the registry in
21 writing of their current mailing address, current residence address, e-mail

1 address, telephone number, and of any change in either address within seven
2 days of the change, until all obligations to pay support or support arrearages or
3 to provide for visitation are satisfied;

4 (4) include in bold letters notification of remedies available under
5 section 798 of this title;

6 (5) include in bold letters notification that the parent may seek a
7 modification of his or her support obligation if there has been a showing of a
8 real, substantial and unanticipated change of circumstances.

9 (d) The parent under a medical support order shall notify his or her
10 employer of such obligation in writing within 10 days of the date of the order.
11 If the parent is not employed or is self-employed, the parent shall notify his or
12 her insurer of such obligation in writing within 10 days of the date of the order.
13 If a parent under a medical support order fails to give notice as provided in this
14 subsection, he or she shall be liable for all health care expenses of the child
15 subsequent to the date of the order until the order is modified by the court with
16 respect to medical support.

17 (e) A child support order shall include the following language: “A
18 PARENT OR ANY OTHER PERSON TO WHOM SUPPORT HAS BEEN
19 GRANTED, OR ANY PERSON CHARGED WITH SUPPORT, MAY FILE
20 A MOTION FOR A MODIFICATION OF A CHILD SUPPORT ORDER
21 UNDER 15 V.S.A. § 660. A MODIFICATION MAY BE GRANTED UPON

1 A REAL, SUBSTANTIAL, AND UNANTICIPATED CHANGE OF
2 CIRCUMSTANCES, INCLUDING LOSS OF EMPLOYMENT OR A
3 CONSIDERABLE REDUCTION OR INCREASE IN SALARY OR WAGES.
4 AN OBLIGOR IS RESPONSIBLE FOR ANY REQUIRED PAYMENTS SET
5 FORTH IN AN ORDER UNLESS THE ORDER IS VACATED OR
6 MODIFIED BY A COURT. THUS, ANY SUBSEQUENT AGREEMENT
7 BETWEEN THE PARTIES THAT DIFFERS FROM THE ORDER IS NOT
8 LEGALLY BINDING, AND THE OBLIGOR IS STILL LEGALLY
9 REQUIRED TO PAY THE AMOUNT ORDERED BY THE COURT.”

10 Sec. 2. 15 V.S.A. § 780 is amended to read:

11 § 780. DEFINITIONS

12 As used in this chapter:

13 (1) “Court” means the court with jurisdiction over the proceeding.

14 (2) “Employer” means any employer or payor of wages of any type to
15 the obligor.

16 (3) “Obligee” means the person found to be legally entitled to receive
17 support or any person to whom the obligee has assigned or authorized all rights
18 of collection.

19 (4) “Obligor” means the person required to pay support under a
20 support order.

21 (5) “Registry” means the registry established in 33 V.S.A. § 4103.

1 (6) “Support” means periodic payments ordered for the support of
2 dependent children or, for the purposes of sections 783-790 of this title only, a
3 spouse. Support includes periodic amounts to be applied toward unpaid
4 arrearages.

5 (7) “Support order” means any judgment, order or contract for support
6 enforceable in this ~~state~~ State, including, ~~but not limited to~~, orders issued
7 pursuant to 15 V.S.A. chapters 5 (relating to desertion and support and
8 parentage), 7 (relating to URESA) or 11 (relating to annulment and divorce).

9 (8) “Wage withholding order” means a transfer from the obligor to the
10 obligee of the right to receive a portion of the obligor’s wages directly from the
11 obligor’s employer.

12 (9) “Wages” means any compensation paid or payable for personal
13 services, whether designated as wages, salary, commission, bonuses, or
14 otherwise, and shall include periodic payments under pension or retirement
15 programs, workers’ compensation or insurance policies of any type.

16 (10) “Notice” means notification by first class mail or other means
17 likely to give actual notice of the proposed action, including electronic mail or
18 other electronic means.

1 Sec. 3. 15 V.S.A. § 782 is amended to read:

2 § 782. EXPEDITED PROCEDURE FOR WAGE WITHHOLDING

3 (a) In the case of an order for child support made or modified after July 1,
4 1990, which does not include an order for immediate wage withholding, an
5 obligee may request a wage withholding order when any amount due under the
6 order has not been paid within seven days after the amount is due. The obligor
7 may request wage withholding at any time. The petition for wage withholding
8 shall set forth:

9 (1) ~~The~~ the amount of support arrearages, if any;

10 (2) ~~The~~ the terms of the support order;

11 (3) ~~The~~ the periodic amount to be withheld for support and
12 arrearages; and

13 (4) ~~A~~ a statement that the obligor may object to wage withholding on the
14 basis of an error in the amount of current support or arrearages or an error in
15 identity, at a hearing to be held within ten days of the date the petition is filed.

16 (b) The petition shall be served upon the other party or parties as provided
17 in section 783 of this title.

18 (c) ~~The court~~ Court shall set the date for the hearing and notify the parties
19 of the place, date and time. The hearing shall be held within ten days of the
20 date the petition is filed.

1 (d) The ~~court~~ Court shall enter a judgment for wage withholding under any
2 one of the following circumstances:

3 (1) The obligor does not appear at the hearing without good cause.

4 (2) The obligor has requested the wage withholding order.

5 (3) The ~~court~~ Court finds after hearing that any amount due under a
6 support order has not been paid within seven days after the amount is due.

7 (e) In all cases the ~~court~~ Court shall issue an order for wage withholding, if
8 any, within 15 days of notice sent to the responding party.

9 (f) Notwithstanding the provisions of this section to the contrary, the ~~office~~
10 ~~of child support~~ Office of Child Support may notify an employer to initiate
11 wage withholding without obtaining a modification of the ~~court~~ Court order if
12 any amount due under the order has accumulated to one-twelfth of the
13 annualized amount of child support after:

14 (1) verifying the arrears based on a sworn statement of the obligee or, if
15 the ~~office of child support~~ Office of Child Support has maintained the financial
16 records, an employee familiar with the financial records; and

17 (2) notifying the obligor of the withholding pursuant to subsection
18 783(b) of this title by first class mail or other means likely to give actual notice
19 of the proposed action, including electronic mail or other electronic means and
20 giving the obligor an opportunity to object and request a hearing in ~~family~~
21 ~~division of the superior court~~ the Family Division of the Superior Court to

1 contest the withholding on the grounds that the withholding or the amount
2 withheld is improper due to a mistake of fact.

3 Sec. 4. 15 V.S.A. § 791 is amended to read:

4 § 791. ARREARAGE JUDGMENT LIEN

5 (a)(1) A judgment issued by the ~~court~~ Court for support arrearages in
6 excess of one-twelfth of the annualized amount of support shall constitute an
7 arrearage judgment lien, if properly recorded under this section. The ~~court~~
8 Court shall also issue an order that payment of support shall be made through
9 the registry.

10 (2) If payments are being made through the registry, a sworn affidavit of
11 the ~~office of child support~~ Office of Child Support, establishing an arrearage in
12 excess of one-quarter of the annualized amount of support attached to the
13 underlying court order shall constitute an arrearage lien, if properly recorded
14 under this section.

15 (3) Before filing a lien provided for in subdivision (2) of this subsection,
16 the ~~office of child support~~ Office of Child Support shall serve the obligor
17 pursuant to subsection 783(b) of this title with notice of the amount of the past
18 due child support, the consequences of the filing of the lien, and the procedure
19 for contesting the arrearage and challenging the lien pursuant to 33 V.S.A.
20 § 4108. If the obligor does not contest the notice of lien within 20 days of
21 service, the office may record the lien under this section. ~~For the purposes of~~

1 As used in this section, such a lien shall be considered an arrearage
2 judgment lien.

3 (4) A copy of any document recorded under this subsection shall be sent
4 to the parties by certified mail first class mail or other means likely to give
5 actual notice of the proposed action, including electronic mail or other
6 electronic means.

7 (b) An arrearage judgment lien shall be recorded in accordance with
8 12 V.S.A. § 2904 with the clerk in any town where real property owned by the
9 obligor may be found, or in the case of personal property in the proper place
10 for recording a security interest under 9A V.S.A. article 9 ~~of Title 9A~~. The
11 judgment shall become a lien for the amount of support arrearages at the time
12 the judgment is issued and any arrearages which accrue after that time and
13 until the lien is released. The judgment shall not become a lien for any sum or
14 sums prior to the date they severally become due and payable.

15 (c) Within 10 days of the request of the obligor, the ~~office of child support~~
16 Office of Child Support shall issue a certificate of release of an arrearage
17 judgment lien if:

18 (1) liability for the amount due has been satisfied or has become
19 enforceable by reason of lapse of time; or

20 (2) the interest of the obligee in the property has no value.

1 (d) If the ~~office of child support~~ Office of Child Support does not issue a
2 release of lien within 10 days or if there is a disagreement over the amount of
3 arrearages, the obligor may request the ~~court~~ Court to determine the amount of
4 arrearages or to issue a release of lien, or both. The ~~court~~ Court shall schedule
5 a hearing to be held within 10 days of the request. The ~~court~~ Court may issue a
6 release of lien without requiring the obligor to satisfy his or her liability for the
7 total amount due if it finds that justice so requires.

8 (e) A certificate of release of lien applicable to real property and issued by
9 the ~~office of child support~~ Office of Child Support or the ~~court~~ Court shall be
10 in substantially the following form:

11 I hereby certify that the judgment for child support arrearages is paid in full
12 and that the lien recorded in book _____, page _____ of the land
13 records of the town of _____ is satisfied. A certificate of
14 release of lien which is recorded by the town clerk in the land records shall
15 release the lien and bar actions brought thereon.

16 (f) The lien created pursuant to this section shall be effective eight years
17 from the date of issuance of the judgment or eight years after termination of
18 the obligation to pay support, whichever is later. If the lien is not satisfied
19 within 30 days of recording, it may be foreclosed and redeemed as provided in
20 Vermont Rules of Civil Procedure Rule 80.1.

1 (g) The lien created by this section shall be in addition to and separate from
2 any other remedy or interest created by law or contract.

3 (h) Upon compliance with subsection (a) of this section, this ~~state~~ State
4 shall accord full faith and credit to arrearage liens that arise in another state if
5 the other state accords reciprocity to this ~~state's~~ State's arrearage liens.

6 Sec. 5. 15 V.S.A. § 792 is amended to read:

7 § 792. LOTTERY OFFSET

8 (a) For all Vermont lottery games, the ~~lottery commission~~ Lottery
9 Commission shall, before issuing prize money of \$500.00 or more to a winner,
10 determine whether the winner has an outstanding child support arrearage
11 payable to the ~~office of child support~~ Office of Child Support. If the winner
12 has a child support arrearage, the ~~lottery commission~~ Lottery Commission shall
13 withhold the entire amount of winnings and pay the same to the ~~office of child~~
14 ~~support~~ Office of Child Support. The ~~office of child support~~ Office of Child
15 Support shall offset the winnings by the amount of support arrearages and the
16 remainder of the winnings, if any, shall be sent to the winner. The obligor
17 shall be notified by the ~~office of child support~~ Office of Child Support of the
18 offset prior to payment to the obligee by first class mail or other means likely
19 to give actual notice of the proposed action, including electronic mail or other
20 electronic means, and given a period not to exceed 20 days to contest the
21 accuracy of the information.

1 (b) The ~~office of child support~~ Office of Child Support shall inform the
2 ~~lottery commission~~ Lottery Commission of persons with child support
3 arrearages upon request. Each liable person shall be identified by name,
4 address, and Social Security number.

5 (c) This section shall apply to tri-state lottery games at such time as the
6 same or similar provisions become law in Maine and New Hampshire in
7 accordance with the ~~tri-state lotto compact~~ Tri-state Lotto Compact.

8 Sec. 6. 15 V.S.A. § 793 is amended to read:

9 § 793. CREDIT REPORTING

10 (a) Information regarding the amount of arrearages owed by an obligor may
11 be made available by the ~~office of child support~~ Office of Child Support to any
12 consumer credit bureau organization upon the request of the organization, only
13 if the amount of the arrearages is at least one-quarter of the annual support
14 obligation and the ~~office of child support~~ Office of Child Support has notified
15 the obligor by first class mail or other means likely to give actual notice of the
16 proposed action, including electronic mail or other electronic means, and given
17 a period not to exceed 20 days to contest the accuracy of the information with
18 the ~~office of child support~~ Office of Child Support. In computing the amount
19 of an arrearage, any arrearage accumulated after a motion to modify has been
20 filed shall not be included.

1 (b) The ~~office of child support~~ Office of Child Support shall immediately
2 notify each credit bureau organization to which information has been furnished
3 of any increases or decreases in the account balance.

4 Sec. 7. 15 V.S.A. § 798 is amended to read:

5 § 798. ENFORCEMENT OF CHILD SUPPORT ORDERS; SUSPENSION
6 OF LICENSES

7 (a) Upon noncompliance with an order issued under section 606 of this
8 title, a motion may be filed seeking an order for suspension of licenses under
9 this section. The motion shall be scheduled for hearing in accordance with the
10 Vermont Rules of Family Proceedings within 30 days of the filing of the
11 motion. At a hearing under this subsection, the obligor shall have the
12 opportunity to present evidence relating to the reasons for noncompliance. An
13 inability to comply shall be a defense in an action brought under this
14 subsection. The noncomplying party shall have the burden of demonstrating
15 inability to comply. An order issued under subsection (c) of this section is in
16 addition to other remedies available at law.

17 (b) The ~~office of child support~~ Office of Child Support may
18 administratively suspend licenses under this section upon noncompliance with
19 an order under section 606 of this title. Prior to suspending a license, the ~~office~~
20 ~~of child support~~ Office of Child Support shall notify the obligor of the ~~office's~~
21 Office's intent to suspend the obligor's license by first class mail or other

1 means likely to give actual notice of the proposed action, including electronic
2 mail or other electronic means and shall provide the obligor with an
3 opportunity to contest the action pursuant to 33 V.S.A. § 4108. If the obligor
4 fails to either contest the claimed delinquency or request an opportunity to
5 present evidence relating to the noncompliance within 21 days of notification,
6 the ~~office of child support~~ Office of Child Support may issue a license
7 suspension order.

8 (c) Upon a finding of noncompliance with an order issued under section
9 606 of this title and a delinquency of at least one-quarter of the annual support
10 obligation, the ~~office of child support~~ Office of Child Support, or a judge or
11 magistrate of a ~~family division of the superior court judge~~ Family Division of
12 the Superior Court, if assigned by the presiding judge of such court, may order
13 a civil suspension of a noncomplying party's motor vehicle operator's license
14 issued under 23 V.S.A. chapter 9 ~~of Title 23~~ or commercial driver license
15 issued under 23 V.S.A. chapter 39 ~~of Title 23~~, recreational license, and any
16 other license certification or registration issued by an agency to conduct a trade
17 or business, including a license to practice a profession or occupation.

18 (d) Upon receipt of a license suspension order issued under this section, the
19 license issuing authority shall suspend the license according to the terms of the
20 order. Prior to suspending the license, the license issuing authority shall notify
21 the license holder of the pending suspension and provide the license holder

1 with an opportunity to contest the suspension based solely on the grounds of
2 mistaken identity or compliance with the underlying child support order. The
3 license shall be reinstated within five days of a reinstatement order from the
4 ~~court~~ Court or notification from the ~~office of child support~~ Office of Child
5 Support or the custodial parent, where the rights of that parent have not been
6 assigned to the ~~office of child support~~ Office of Child Support, that the parent
7 is in compliance with the underlying child support order. The license issuing
8 authority shall charge a reinstatement fee as provided for in 23 V.S.A. § 675,
9 or as otherwise provided by law or rule.

10 (e) The license issuing authority shall adopt procedural rules in accordance
11 with the provisions of 3 V.S.A. chapter 25 ~~of Title 3~~ to implement the
12 provisions of this section.

13 Sec. 8. 15 V.S.A. § 799 is amended to read:

14 § 799. TRUSTEE PROCESS

15 (a) As used in this section, “trustee” means any person, institution, or
16 entity, holding any money, personal property or real property which belongs to
17 or is owed to the obligor, including judgments, settlements, lottery winnings,
18 funds held in financial institutions, and any voluntary contributions to public
19 and private retirement funds.

20 (b) Upon noncompliance with a child support order in excess of one-
21 quarter of the annual support obligation, the ~~office of child support~~ Office of

1 Child Support may seek to attach assets owned by an obligor and held by a
2 trustee. Prior to attaching assets held by a trustee, the ~~office of child support~~
3 Office of Child Support shall notify the obligor of the delinquency and of the
4 ~~office's~~ Office's intent to take administrative enforcement action for liens and
5 trustee process by first class mail or other means likely to give actual notice of
6 the proposed action, including electronic mail or other electronic means, and
7 shall provide the obligor with an opportunity to contest the claimed
8 delinquency and enforcement action pursuant to 33 V.S.A. § 4108. If the
9 obligor fails to contest the claimed delinquency within 20 days after
10 notification, or upon a final determination of a delinquency after hearing, the
11 ~~office of child support~~ Office of Child Support may issue a summons to a
12 trustee as provided in subsection (c) of this section.

13 (c) If no timely contest is made or upon a final determination of
14 nonpayment of child support equal to or greater than one-quarter of the annual
15 support obligation, the ~~office of child support~~ Office of Child Support may
16 issue one or more summons to the trustee. The sum of the amounts for which
17 the goods, effects, or credits of the obligor are attached on trustee process shall
18 not exceed the amount determined to be delinquent under subsection (b) of this
19 section. The ~~office of child support~~ Office of Child Support shall serve on the
20 trustee and shall provide to the obligor by first class mail or other means likely
21 to give actual notice of the action, including electronic mail or other electronic

1 means, a disclosure form and a notice of the exemptions under subsection (f)
2 of this section. If at any time the ~~office~~ Office finds the outstanding arrearage
3 has been satisfied in whole or in part, the ~~office~~ Office shall discharge any
4 trustee process which is outstanding or reduce the amounts for which the
5 goods, effects, or credits of the obligor are attached so the sum of all such
6 amounts does not exceed the amount that remains unsatisfied. The ~~office~~
7 Office shall promptly notify the trustee and obligor of the change.

8 (d) In the event the obligor or other aggrieved person contests the summons
9 to the trustee pursuant to 33 V.S.A. § 4108 or appeals the proposed action to
10 the ~~family division of the superior court~~ Family Division of the Superior Court
11 within 20 days of the summons and is found not to be in arrears by more than
12 one-quarter of the annual support obligation on the date the summons to the
13 trustee was issued, the ~~office~~ Office, within two business days, shall discharge
14 the trustee process and notify the trustee and the obligor. In addition, the
15 ~~office~~ Office shall pay to the obligor or other aggrieved person the sum
16 of \$500.00.

17 (e) Upon receipt of a summons, the trustee shall secure and hold the assets
18 in its possession up to the amount specified in the summons, and shall serve a
19 disclosure under oath on the ~~office of child support~~ Office of Child Support
20 and the obligor. If no timely contest is made or upon a final determination of
21 any contest sustaining the trustee process, the trustee shall tender to the ~~office~~

1 ~~of child support~~ Office of Child Support the assets of the obligor in its
2 possession up to the amount specified in the summons. If the trustee fails to
3 disclose or fails or refuses to tender the property as directed, the ~~office of child~~
4 ~~support~~ Office of Child Support may file an action with the ~~family division of~~
5 ~~the superior court~~ Family Division of the Superior Court to determine the
6 trustee's liability. A trustee shall not be liable to the obligor for complying
7 with this section.

8 (f) The exemptions from attachments and executions in 12 V.S.A. § 2740
9 shall apply to the trustee process provided for in this section except as follows:

10 (1) the exemption in 12 V.S.A. § 2740(15) shall not exceed \$400.00;

11 (2) the exemption in 12 V.S.A. § 2740(16) shall not exceed

12 \$5,000.00; and

13 (3) the exemption in 12 V.S.A. § 2740(18) shall not apply.

14 (g) Upon notifying a trustee to attach voluntary retirement funds, the ~~office~~
15 Office shall give the obligor an opportunity to have the attachment removed by
16 making alternate payment arrangements satisfactory to the ~~office~~ Office within
17 30 days of issuance of the summons.

18 Sec. 9. 33 V.S.A. § 4102 is amended to read:

19 § 4102. RESPONSIBILITIES

20 (a) The Office of Child Support shall be accountable and responsible for
21 the operation of the federal IV-D program and shall be responsible for

1 formulating the State Child Support Enforcement Plan as required under Title
2 IV-D of the federal Social Security Act.

3 (b) The Office of Child Support shall be responsible for the administration
4 of the Registry established in section 4103 of this title.

5 (c) Upon application of the parent or guardian of a minor child, the Office
6 of Child Support shall provide the following services:

7 (1) ~~Location~~ location of absent parents;:

8 (2) ~~Financial~~ financial assessment to determine a parent's ability to
9 provide support;:

10 (3) ~~Determination~~ determination of a parent's employment status;:

11 (4) ~~Enforcement~~ enforcement of child support orders;:

12 (5) ~~Establishment~~ establishment of parentage; and

13 (6) ~~Any~~ any other services required to be provided under Title IV-D.

14 (d) The Office of Child Support shall provide appropriate instruction and
15 supervision of its employees concerning legal ethics, family law, court
16 procedure, child abuse, public benefit programs, and the dynamics of
17 parent-child relationships.

18 (e) If a support obligation is in effect against a responsible parent for the
19 benefit of a dependent child or a custodial parent or guardian, upon application
20 of either a parent or guardian, payments shall be sent to the Office of Child
21 Support after notice to the responsible parent, without further order of the

1 court. Notice may be sent by first class mail or other means likely to give
2 actual notice, including electronic mail or other electronic means.

3 (f) No employees may be assigned to a case before the Family Division of
4 the Superior Court without the skill and professional qualifications
5 commensurate with the complexity of the case.

6 Sec. 10. EFFECTIVE DATE

7 This act shall take effect on July 1, 2015.