

## **CHAPTER 14-08.1 CIVIL REMEDIES FOR CHILD SUPPORT**

### **14-08.1-01. Liability for support.**

A person legally responsible for the support of a child under the age of eighteen years who is not subject to any subsisting court order for the support of the child and who fails to provide support, subsistence, education, or other necessary care for the child, regardless of whether the child is not or was not in destitute circumstances, is liable for the reasonable value of physical and custodial care or support which has been furnished to the child by any person, institution, agency, or county social service board. Any payment of public assistance money made to or for the benefit of any dependent child creates a presumption that such payment equals the reasonable value of physical and custodial care or support.

### **14-08.1-01.1. Definitions.**

Terms defined in chapter 14-09 have the same meaning when used in this chapter.

### **14-08.1-02. Procedure for action.**

An obligation for the support of a child under section 14-08.1-01 may be asserted by a civil action. The action may be commenced in the district court of the county wherein the child or the defendant resides or may be found, or wherein the defendant has assets subject to attachment, garnishment, or execution.

### **14-08.1-03. Security required - Enforcement remedies.**

In order to enforce an obligation for the support of a child under section 14-08.1-01, the court may make suitable provision for the future care or support of the child, require reasonable security for payments required under this chapter, and enforce the obligation by attachment, garnishment, or by other appropriate remedies, including proceedings under chapter 14-08 as nearly as may be.

### **14-08.1-04. Duty of state's attorney.**

Upon request of the county social service board director or the executive director of the department of human services, the state's attorney of any county furnishing public assistance or county general assistance shall commence any appropriate action or proceeding under sections 14-08.1-02 and 14-08.1-03, in which case fees for filing and service of process may not be charged or collected.

### **14-08.1-05. Support order to be judgment.**

1. Any order directing any payment or installment of money for the support of a child is, on and after the date it is due and unpaid:
  - a. A judgment by operation of law, with the full force, effect, and attributes of a judgment of the district court, and must be entered in the judgment docket, upon filing by the judgment creditor or the judgment creditor's assignee of a written request accompanied by a verified statement of arrearage or certified copy of the payment records maintained under section 50-09-02.1 and an affidavit of identification of the judgment debtor, and otherwise enforced as a judgment;
  - b. Entitled as a judgment to full faith and credit in any jurisdiction which otherwise affords full faith and credit to judgments of the district court; and
  - c. Not subject to retroactive modification.
2. The due and unpaid payments and any judgment entered in the judgment docket pursuant to this section are not subject to the statutes of limitation provided in chapter 28-01. Such judgments may not be canceled pursuant to section 28-20-35. For such judgments, the duration of a lien under section 28-20-13 and the period during which an execution may be issued are not subject to the time limitations in chapters 28-20 and 28-21.

3. Failure to comply with the provisions of a judgment or order of the court for the support of a child constitutes contempt of court. All remedies for the enforcement of judgments apply. A party or the party's assignee may also execute on the judgment, and the obligor is entitled only to the exemptions from process set forth in section 28-22-02.
4. This section applies to all child support arrearages, whether accrued before or after July 1, 1997.

**14-08.1-05.1. Past-due support - Plan of payment - Work activities.**

1. In any case in which an individual owes past-due child support, the court may, by order, require the individual to:
  - a. Pay past-due support in accordance with a plan approved by the court or the child support agency;
  - b. If the individual is subject to such a plan and is not incapacitated, to participate in such work activities as the court deems appropriate; and
  - c. Participate in treatment for mental illness or drug or alcohol dependency.
2. For purposes of this section, "work activities" may include:
  - a. Unsubsidized employment;
  - b. Subsidized private sector employment;
  - c. Subsidized public sector employment;
  - d. Work experience, including work associated with the refurbishing of publicly assisted housing, if sufficient private sector employment is not available;
  - e. On-the-job training;
  - f. Job search and job readiness assistance;
  - g. Community service programs;
  - h. Career and technical education training, not to exceed twelve months with respect to any individual;
  - i. Job skills training directly related to employment;
  - j. Education directly related to employment, in the case of an individual who has not received a high school diploma or a certificate of high school equivalency;
  - k. Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of an individual who has not completed secondary school or received such a certificate;
  - l. The provision of child care services to an individual who is participating in a community service program; and
  - m. Postsecondary education and any other activity permitted or required to be treated by the federal government as work for purposes of calculating a work participation rate.

**14-08.1-06. Suspension of occupational, professional, or recreational license for nonpayment of child support or failure to obey subpoena.**

When considering a contempt citation against a child support obligor who is in arrears in child support in an amount greater than three times the monthly child support obligation and the obligor is not current in a court-established plan to repay the unpaid child support arrears, or who has failed, after receiving appropriate notice, to comply with a subpoena relating to a paternity or child support matter, the court shall address and make specific findings on the issue of whether the obligor has or may obtain an occupational, professional, or recreational certificate, permit, or license that the court may withhold or suspend. The court may withhold or suspend any certificate, permit, or license issued by or on behalf of the state or any of its licensing authorities or occupational or professional boards, which the obligor is required to obtain prior to engaging in the obligor's occupation or profession. The court may withhold or suspend any certificate, permit, or license issued by lottery or by tag by the director of the game and fish department, which the obligor is required to obtain prior to engaging in a recreational activity. Following a decision to withhold or suspend an obligor's certificate, permit, or license for failure to pay child support, the court shall notify the obligor that the decision becomes final thirty days after the notification unless the obligor satisfies or makes arrangements to pay the entire outstanding payment due. Following a decision to withhold or suspend an obligor's certificate,

permit, or license for failure to comply with a subpoena relating to a paternity or child support matter, the court shall notify the obligor that the decision becomes final unless the obligor complies with the subpoena within a time set by the court. The court shall notify the appropriate licensing authority, occupational or professional board, or the director of the game and fish department of the court's decision to withhold or suspend an obligor's certificate, permit, or license. A certificate, permit, or license withheld or suspended by an order issued under this section may be reissued only by order of the court. An appeal by an obligor who has had a certificate, permit, or license suspended under this section is an appeal from the court's order and may not be appealed to the licensing authority, occupational or professional board, or the director of the game and fish department.

**14-08.1-07. Suspension of motor vehicle operator's license for nonpayment of child support or failure to obey subpoena.**

When considering a contempt citation against a child support obligor who is in arrears in child support in an amount greater than three times the monthly child support obligation and the obligor is not current in a court-established plan to repay the unpaid child support arrears, or who has failed, after receiving appropriate notice, to comply with a subpoena relating to a paternity or child support matter, the court shall determine whether the obligor has a motor vehicle operator's license issued under chapter 39-06. The court may restrict or suspend a motor vehicle operator's license issued by the state which is held by the obligor. The court shall notify the department of transportation of the court's decision to restrict or suspend an obligor's motor vehicle operator's license. An appeal by an obligor who has had a motor vehicle operator's license restricted or suspended under this section is an appeal from the court's order and may not be appealed to the department of transportation. Except for statistical purposes, an entry on the driving record or abstract of a restriction or suspension under this section after the restriction or suspension ceases may not be available to the public other than by order of a court of competent jurisdiction. A suspension under this section is not subject to the financial responsibility reporting requirements.

**14-08.1-08. Certification of records.**

The clerk of court and any authorized agent of the child support agency, in any circumstance or proceeding requiring proof of the contents of the official records of the state regarding any information maintained in the state case registry of the automated data processing system established under section 50-09-02.1, may certify the content of those records. A certification provided under this section is prima facie evidence of the contents of those records.