

HOUSE BILL No. 2360

By Representative Landwehr

2-12

AN ACT concerning child support; relating to the failure to pay; administratively suspending a driver's license or placing a distraint on a motor vehicle.

Be it enacted by the Legislature of the State of Kansas:

Section 1. If a person has not paid child support for three months or is in arrearage in an amount of three times the monthly payment, the division, pursuant to section 2, and amendments thereto, shall:

(a) On the person's first or second occurrence, suspend the person's driving privileges for 30 days; and

(b) on the person's third or subsequent occurrence:

(1) Suspend the person's driving privileges for one year;

(2) place a distraint, which may include a boot, on the motor vehicle or vehicles for one year; and

(3) place identification on such motor vehicle or vehicles that states such person is in arrearage on child support.

Sec. 2. (a) Whenever a person has not paid child support for three months or is in arrearage in an amount of three times the monthly payment, a certification shall be prepared by the central unit for collection and disbursement of support payments as provided in K.S.A. 23-4,118, and amendments thereto. The certification required by this section shall be signed by a designated employee of such central unit to certify:

(1) The person has not paid child support for three months or is in arrearage in an amount of three times the monthly payment; and

(2) the person has been notified 90 days prior to this certification and has failed to pay such arrearage or agree to a payment plan.

(b) For purposes of this section, certification shall be complete upon signing, and no additional acts of oath, affirmation, acknowledgment or proof of execution shall be required. The signed certification or a copy or photostatic reproduction thereof shall be admissible in evidence in all proceedings brought pursuant to this act, and receipt of any such certification, copy or reproduction shall accord the department authority to proceed as set forth herein. Any person who signs a certification submitted to the division knowing it contains a false statement is guilty of a class B nonperson misdemeanor.

1 (c) When the division receives a certification, the director shall serve
2 notice of such suspension, motor vehicle distraint or identification, or all
3 of the aforementioned, in person or by a designated person or by mailing
4 the notice to the person at the address provided on the certification.

5 (d) In addition to the information required by subsection (a), the
6 certification and notice of suspension, motor vehicle distraint or identi-
7 fication, or all of the aforementioned, shall contain the following
8 information:

9 (1) The person's name, driver's license number and current address;

10 (2) motor vehicles registered in the person's name, the address on
11 the motor vehicle registration and the name of any lien holder on the
12 motor vehicle;

13 (3) the reason and statutory grounds for the suspension;

14 (4) the date notice is being served and a statement that the effective
15 date of the suspension shall be the 30th calendar day after the date of
16 service;

17 (5) the right of the person to request an administrative hearing; and

18 (6) the procedure the person must follow to request an administrative
19 hearing.

20 The certification and notice of suspension, motor vehicle distraint or
21 identification, or all of the aforementioned, shall also inform the person
22 that all correspondence will be mailed to the person at the address con-
23 tained in the certification and notice of suspension, motor vehicle distraint
24 or identification, or all of the aforementioned, unless the person notifies
25 the division in writing of a different address or change of address. The
26 address provided will be considered a change of address for purposes of
27 K.S.A. 8-248, and amendments thereto, if the address furnished is dif-
28 ferent from that on file with the division.

29 (e) A temporary license shall be served together with the copy of the
30 certification and notice of suspension, motor vehicle distraint or identi-
31 fication, or all of the aforementioned. A temporary license issued pursuant
32 to this subsection shall bear the same restrictions and limitations as the
33 license for which it was exchanged.

34 (f) Upon receipt of the certification, the division shall review the cer-
35 tification to determine that it meets the requirements of subsection (a).
36 Upon so determining, the division shall proceed to suspend the person's
37 driving privileges, place motor vehicle distraint or identification, or all of
38 the aforementioned, in accordance with the notice previously served. If
39 the requirements of subsection (a) are not met, the division shall dismiss
40 the administrative proceeding and return any license surrendered by the
41 person.

42 (g) If the person mails a written request which is postmarked within
43 10 days after service of the notice, if by personal service, or 13 days after

1 service, if by mail, the division shall schedule a hearing in the county
2 where the alleged violation occurred, or in a county adjacent thereto. The
3 licensee may request that subpoenas be issued in accordance with the
4 notice provided pursuant to subsection (d). Any request made by the
5 licensee to subpoena witnesses must be made in writing at the time the
6 hearing is requested and must include the name and current address of
7 such witnesses. Upon receiving a timely request for a hearing, the division
8 shall mail to the person notice of the time, date and place of hearing in
9 accordance with subsection (j) and extend the person's temporary driving
10 privileges until the date set for the hearing by the division.

11 (h) The scope of the hearing shall be limited to whether the person
12 has not paid child support for three months or is in arrearage in an amount
13 of three times the monthly payment.

14 (i) If no timely request for hearing is made, the suspension period
15 imposed pursuant to section 1, and amendments thereto, the period for
16 motor vehicle distraint or identification, or all of the aforementioned, shall
17 begin upon the expiration of the temporary license granted under sub-
18 section (e). If a timely request for hearing is made, the hearing shall be
19 held within 30 days of the date the request for hearing is received by the
20 division, except that failure to hold such hearing within 30 days shall not
21 be cause for dismissal absent a showing of prejudice. At the hearing, the
22 director or the representative of the director, shall either affirm the order
23 of suspension, motor vehicle distraint or identification, or all of the afore-
24 mentioned, or dismiss the administrative action. If the division is unable
25 to hold a hearing within 30 days of the date upon which the request for
26 hearing is received, the division shall extend the person's temporary driv-
27 ing privileges until the date set for the hearing by the division. No exten-
28 sion of temporary driving privileges shall be issued for continuances re-
29 quested by or on behalf of the licensee. If the person whose privileges
30 are suspended is a nonresident licensee, the license of the person shall
31 be forwarded to the appropriate licensing authority in the person's state
32 of residence if the result at the hearing is adverse to such person or if no
33 timely request for a hearing is received.

34 (j) All notices affirming or canceling a suspension, motor vehicle dis-
35 traint or identification, or all of the aforementioned, under this section,
36 all notices of a hearing held under this section and all issuances of tem-
37 porary driving privileges shall be sent by first-class mail and a United
38 States post office certificate of mailing shall be obtained therefor. All
39 notices so mailed shall be deemed received three days after mailing.

40 (k) The division shall prepare and distribute forms for use by persons
41 in giving the notice required by this section.

42 (l) The provisions of K.S.A. 60-206, and amendments thereto, re-
43 garding the computation of time shall not be applicable in determining

1 the effective date of suspension, motor vehicle distraint or identification,
2 or all of the aforementioned, set out in subsection (d) or the time for
3 requesting an administrative hearing set out in subsection (g). “Calendar
4 day” when used in this section shall mean that every day shall be included
5 in computations of time whether a week day, Saturday, Sunday or holiday.

6 Sec. 3. This act shall take effect and be in force from and after its
7 publication in the statute book.

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