

§ 110-136.3. Income withholding procedures; applicability.

(a) Required Contents of Support Orders. – All child support orders, civil or criminal, entered or modified in the State in IV-D cases shall include a provision ordering income withholding to take effect immediately. All child support orders, civil or criminal, initially entered in the State in non-IV-D cases on or after January 1, 1994, shall include a provision ordering income withholding to take effect immediately as provided in G.S. 110-136.5(c1), unless one of the exceptions specified in G.S. 110-136.5(c1) applies. A non-IV-D child support order that contains an income withholding requirement and a IV-D child support order shall comply with each of the following:

- (1) Require the obligor to keep the clerk of court or IV-D agency informed of the obligor's current residence and mailing address.
- (2), (2a) Repealed by Session Laws 1993, c. 517, s. 1.
- (3) Require the obligor to cooperate fully with the initiating party in the verification of the amount of the obligor's disposable income.
- (4) Require the custodial party to keep the obligor informed of the custodial party's disposable income and the amount and effective date of any substantial change in this disposable income.
- (4a) Include the current residence and mailing address of the custodial parent, or the address of the child if the address of the custodial parent and the address of the child are different. However, there is no requirement that the child support order contain the address of the custodial parent or the child if (i) there is an existing order prohibiting disclosure of the custodial parent's or child's address to the obligor or (ii) the court has determined that notice to the obligor is inappropriate because the obligor has made verbal or physical threats that constitute domestic violence under Chapter 50B of the General Statutes.
- (5) Require the obligor to keep the initiating party informed of the name and address of any payor of the obligor's disposable income and of the amount and effective date of any substantial change in this disposable income.

(a1) Payment Plan/Work Requirement for Past-Due Support. – In any IV-D case in which an obligor owes past-due support and income withholding has been ordered but cannot be implemented against the obligor, the court may order the obligor to pay the support in accordance with a payment plan approved by the court and, if the obligor is subject to the payment plan and is not incapacitated, the court may order the obligor to participate in such work activities, as defined under 42 U.S.C. § 607, as the court deems appropriate.

(b) When obligor subject to withholding. –

- (1) In IV-D cases in which a new or modified child support order is entered on or after October 1, 1989, an obligor is subject to income withholding immediately upon entry of the order. In IV-D cases in which the child support order was entered prior to October 1, 1989, an obligor shall become subject to income withholding on the date on which the obligor fails to make legally obligated child support payments in an amount equal to the support payable for one month, or the date on which the obligor or obligee requests withholding.
- (2) In non-IV-D cases in which the child support order was entered prior to January 1, 1994, an obligor shall be subject to income withholding on the earliest of:

- a. The date on which the obligor fails to make legally obligated child support payments in an amount equal to the support payable for one month;
 - b. The date on which the obligor requests withholding; or
 - c. The date on which the court determines, pursuant to a motion or independent action filed by the obligee under G.S. 110-136.5(a), that the obligor is or has been delinquent in making child support payments or has been erratic in making child support payments.
- (3) In IV-D child support cases in which an order was issued or modified in this State prior to October 1, 1996, and in which the obligor is not otherwise subject to withholding, the obligor shall become subject to withholding if the obligor fails to make legally obligated child support payments in an amount equal to the support payable for one month.
- (4) In the enforcement of alimony or postseparation support orders pursuant to G.S. 110-130.2, an obligor shall become subject to income withholding on the earlier of:
- a. The date on which the obligor fails to make legally obligated alimony or postseparation payments; or
 - b. The date on which the obligor or obligee requests withholding.
- (c) Repealed by Session Laws 1993, c. 517, s. 1.
- (d) Interstate cases. – An interstate case is one in which a child support order of one state is to be enforced in another state.
- (1) In interstate cases withholding provisions shall apply to a child support order of this or any other state. A petition addressed to this State to enforce a child support order of another state or a petition from an initiating party in this State addressed to another state to enforce a child support order entered in this State shall include:
- a. A certified copy of the support order with all modifications, including any income withholding notice or order still in effect;
 - b. A copy of the income withholding law of the jurisdiction which issued the support order, provided that this jurisdiction has a withholding law;
 - c. A sworn statement of arrearages;
 - d. The name, address, and social security number of the obligor, if known;
 - e. The name and address of the obligor's employer or of any other source of income of the obligor derived in the state in which withholding is sought; and
 - f. The name and address of the agency or person to whom support payments collected by income withholding shall be transmitted.
- (2) The law of the state in which the support order was entered shall apply in determining when withholding shall be implemented and interpreting the child support order. The law and procedures of the state where the obligor is employed shall apply in all other respects.
- (3) Except as otherwise provided by subdivision (2), income withholding initiated under this subsection is subject to all of the notice, hearing and other provisions of Chapter 110.
- (4) In all interstate cases notices and orders to withhold shall be served upon the payor by a North Carolina agency or judicial officer. In all interstate

non-IV-D cases, the advance notice to the obligor shall be served pursuant to G.S. 1A-1, Rule 4, Rules of Civil Procedure.

- (5) For purposes of enforcing a petition under this subsection, jurisdiction is limited to the purposes of income withholding and Chapter 52A of the General Statutes shall not apply. Nothing in this subsection precludes any remedy otherwise available in a proceeding under Chapter 52A of the General Statutes.

(d1) Recodified as § 110-139(c1) by Session Laws 2001-237, s. 5, effective June 23, 2001.

(e) Procedures and regulations. – Procedures, rules, regulations, forms, and instructions necessary to effect the income withholding provisions of this Article shall be established by the Secretary of the Department of Health and Human Services or the Secretary's designee and the Administrative Office of the Courts. Forms and instructions shall be sent with each order or notice of withholding. (1985 (Reg. Sess., 1986), c. 949, s. 2; 1987, c. 589, s. 1; 1989, c. 601, s. 2; 1993, c. 517, s. 1; 1997-433, ss. 3, 6.1; 1997-443, s. 11A.118(a); 1998-17, s. 1; 1998-176, s. 4; 2000-140, s. 20(b); 2001-237, s. 5; 2014-115, s. 44.5.)