

**SUBJECT:** License suspension for failure to comply with visitation order

**COMMITTEE:** Juvenile Justice and Family Issues — favorable, without amendment

**VOTE:** 8 ayes — Goodman, A. Reyna, E. Reyna, Menendez, Morrison, Naishtat, Nixon, Tillery

0 nays

1 absent — P. King

**SENATE VOTE:** On final passage, April 26 — 30-0, on Local and Uncontested Calendar

**WITNESSES:** None

**BACKGROUND:** Family Code, ch. 232 establishes guidelines for the suspension of a license for the failure to pay child support or comply with a subpoena. Sec. 232.003 allows a court or a Title IV-D agency to issue an order suspending a license if an obligor:

- ! owes 90 days worth or more in child support;
- ! has been given the opportunity to pay the arrearages under a court order or agreed repayment schedule; and
- ! has failed to comply with the repayment schedule.

An order of license suspension also may be ordered if an obligor has failed to comply with a subpoena issued in a parentage determination or child support proceeding. A child support agency or an obligee may file a petition to suspend an obligor's license.

Under Family Code, sec. 153.001, a court may not render an order that conditions the right of a conservator to possession of or access to a child on the payment of child support.

Sec. 153.007(c) provides that if a custodial parent does not comply with a court order to provide possession of or access to a child, the terms of the order may be enforced by all available remedies, including contempt of court

**DIGEST:** SB 700 would amend Family Code, ch. 232 to authorize a court to issue an order suspending the license of a person who failed to comply with the terms of an enforcement order providing for the possession of or access to a child.

A petition for license suspension would have to include the amount of arrearages owed that were associated with the obligor's failure to comply with a subpoena or a court order providing for the possession of or access to a child. A petition also could include as attachments a copy of the enforcement order with which the individual had not complied and a copy of the court order containing the violations.

If a person were found not to have complied with a court order providing for the possession of or access to a child, the court would have to suspend that individual's license unless the person could show good cause for the failure to comply.

The court could stay an order of suspension, which would be conditional on the individual's compliance with a court order providing for the possession of or access to a child. The obligee, support enforcement agency, court, or Title IV-D agency could file a motion to revoke the stay if the individual did not comply. A motion to revoke a stay would be required to state how the individual was not in compliance with the court order. The court or Title IV-D agency would have to revoke the stay if the person were found not to be in compliance, and could order to vacate or stay a suspension order if the person were found to be in compliance.

The bill would take effect September 1, 2001.

**SUPPORTERS SAY:** If an obligor is found not to be in compliance with a court order to pay child support, any state license issued to the obligor currently can be suspended. However, no comparable consequences exist if the custodial parent fails to comply with a visitation order. SB 700 would make the consequences and procedures the same for either parent in a suit relating to the child.

OPPONENTS  
SAY:

Family Code, sec. 153.001 states that a court may not render an order that conditions the right of a conservator to possession of or access to a child on the payment of child support. Therefore, it would be inappropriate to make the penalties for failure to comply with visitation-right enforcement orders the same as orders to pay child support.