

AN ACT concerning child visitation, which may be referred to as the Steven Watkins Memorial Act.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Illinois Vehicle Code is amended by changing Sections 7-701, 7-702, 7-702.1, 7-703, 7-704, 7-705, 7-706, and 7-708 and by adding Section 7-705.2 as follows:

(625 ILCS 5/7-701)

Sec. 7-701. Findings and purpose. The General Assembly finds that the timely receipt of adequate financial support has the effect of reducing poverty and State expenditures for welfare dependency among children, and that the timely payment of adequate child support demonstrates financial responsibility. Further, the General Assembly finds that the State has a compelling interest in ensuring that drivers within the State demonstrate financial responsibility, including family financial responsibility, in order to safely own and operate a motor vehicle. Further, the General Assembly finds that the State has a compelling interest in ensuring that those individuals with responsibilities involving minor children pursuant to visitation orders demonstrate responsibility, including family responsibility, in order to safely own and operate a motor vehicle, especially when transporting a minor

child who is the subject of a visitation order. To this end, the Secretary of State is authorized to establish systems to suspend driver's licenses for failure to comply with court and administrative orders of support.

(Source: P.A. 95-685, eff. 10-23-07.)

(625 ILCS 5/7-702)

Sec. 7-702. Suspension of driver's license for failure to comply with order to pay support or to comply with a visitation order.

(a) The Secretary of State shall suspend the driver's license issued to an obligor upon receiving an authenticated report provided for in subsection (a) of Section 7-703, that the person is 90 days or more delinquent in court ordered child support payments or has been adjudicated in arrears in an amount equal to 90 days obligation or more, and has been found in contempt by the court for failure to pay the support.

(b) The Secretary of State shall suspend the driver's license issued to an obligor upon receiving an authenticated document provided for in subsection (b) of Section 7-703, that the person has been adjudicated in arrears in court ordered child support payments in an amount equal to 90 days obligation or more, but has not been held in contempt of court, and that the court has ordered that the person's driving privileges be suspended. The obligor's driver's license shall be suspended until such time as the Secretary of State receives

authenticated documentation that the obligor is in compliance with the court order of support. When the obligor complies with the court ordered child support payments, the circuit court shall report the obligor's compliance with the court order of support to the Secretary of State, on a form prescribed by the Secretary of State, and shall order that the obligor's driver's license be reinstated.

(c) The Secretary of State shall suspend a driver's license upon certification by the Illinois Department of Healthcare and Family Services, in a manner and form prescribed by the Illinois Secretary of State, that the person licensed is 90 days or more delinquent in payment of support under an order of support issued by a court or administrative body of this or any other State. The Secretary of State may reinstate the person's driver's license if notified by the Department of Healthcare and Family Services that the person has paid the support delinquency in full or has arranged for payment of the delinquency and current support obligation in a manner satisfactory to the Department of Healthcare and Family Services.

(d) The Secretary of State shall suspend the driver's license issued to a person upon receiving an authenticated document provided for in Section 7-703 that the person has been adjudicated as having engaged in visitation abuse and that the court has ordered that the person's driving privileges be suspended. The person's driver's license shall be suspended

until such time as the Secretary of State receives authenticated documentation that the court has determined that there has been sufficient compliance for a sufficient period of time with the court's order concerning visitation and that full driving privileges shall be reinstated. When the court order in which the court has determined that there has been sufficient compliance for a sufficient period of time with the court's order concerning visitation and that full driving privileges shall be reinstated, the circuit court shall report that order concerning visitation to the Secretary of State, on a form prescribed by the Secretary of State, and shall order that the person's driver's license be reinstated.

(Source: P.A. 95-685, eff. 10-23-07.)

(625 ILCS 5/7-702.1)

Sec. 7-702.1. Family financial responsibility driving permits.

(a) Following the entry of an order that an obligor has been found in contempt by the court for failure to pay court ordered child support payments or upon a motion by the obligor who is subject to having his or her driver's license suspended pursuant to subsection (b) of Section 7-703, the court may enter an order directing the Secretary of State to issue a family financial responsibility driving permit for the purpose of providing the obligor the privilege of operating a motor vehicle between the obligor's residence and place of

employment, or within the scope of employment related duties; or for the purpose of providing transportation for the obligor or a household member to receive alcohol treatment, other drug treatment, or medical care. If the obligor is unemployed, the court may issue the order for the purpose of seeking employment, which may be subject to the requirements set forth in subsection (a) of Section 505.1 of the Illinois Marriage and Dissolution of Marriage Act. Except upon a showing of good cause, any permit issued for the purpose of seeking employment shall be limited to Monday through Friday between the hours of 8 a.m. and 12 p.m. The court may enter an order directing the issuance of a permit only if the obligor has proven to the satisfaction of the court that no alternative means of transportation are reasonably available for the above stated purposes. No permit shall be issued to a person under the age of 16 years who possesses an instruction permit.

Upon entry of an order granting the issuance of a permit to an obligor, the court shall report this finding to the Secretary of State on a form prescribed by the Secretary. This form shall state whether the permit has been granted for employment or medical purposes and the specific days and hours for which limited driving privileges have been granted.

(a-1) Following the entry of an order that a person has been found in contempt by the court for failure to follow a visitation order, the court may enter an order directing the Secretary of State to issue a family responsibility driving

permit for the purpose of providing the person the privilege of operating a motor vehicle between the person's residence and place of employment or within the scope of employment related duties, or for the purpose of providing transportation for the person or a household member to receive alcohol treatment, other drug treatment, or medical care. If the person is unemployed, the court may issue the order for the purpose of seeking employment, which may be subject to the requirements set forth in subsection (a) of Section 505.1 of the Illinois Marriage and Dissolution of Marriage Act. Except upon a showing of good cause, any permit issued for the purpose of seeking employment shall be limited to Monday through Friday between the hours of 8 a.m. and 12 p.m. The court may enter an order directing the issuance of a permit only if the person has proven to the satisfaction of the court that no alternative means of transportation are reasonably available for the above stated purposes. No permit shall be issued to a person under the age of 16 years who possesses an instruction permit. Upon entry of an order granting the issuance of a permit to a person, the court shall report this finding to the Secretary of State on a form prescribed by the Secretary. This form shall state whether the permit has been granted for employment or medical purposes and the specific days and hours for which limited driving privileges have been granted.

(a-2) The family financial responsibility driving permit shall be subject to cancellation, invalidation, suspension,

and revocation by the Secretary of State in the same manner and for the same reasons as a driver's license may be cancelled, invalidated, suspended, or revoked.

The Secretary of State shall, upon receipt of a certified court order from the court of jurisdiction, issue a family financial responsibility driving permit. In order for this permit to be issued, an individual's driving privileges must be valid except for the family financial responsibility suspension or the family responsibility suspension. This permit shall be valid only for employment and medical purposes as set forth above. The permit shall state the days and hours for which limited driving privileges have been granted.

Any submitted court order that contains insufficient data or fails to comply with any provision of this Code shall not be used for issuance of the permit or entered to the individual's driving record but shall be returned to the court of jurisdiction indicating why the permit cannot be issued at that time. The Secretary of State shall also send notice of the return of the court order to the individual requesting the permit.

(b) Following certification of delinquency pursuant to subsection (c) of Section 7-702 of this Code, and upon petition by the obligor whose driver's license has been suspended under that subsection, the Department of Healthcare and Family Services may direct the Secretary of State to issue a family financial responsibility driving permit for the purpose of

providing the obligor the privilege of operating a motor vehicle between the obligor's residence and place of employment, or within the scope of employment related duties, or for the purpose of providing transportation for the obligor or a household member to receive alcohol treatment, other drug treatment, or medical care. If the obligor is unemployed, the Department of Healthcare and Family Services may direct the issuance of the permit for the purpose of seeking employment, which may be subject to the requirements set forth in subsection (a) of Section 505.1 of the Illinois Marriage and Dissolution of Marriage Act. Except upon a showing of good cause, any permit issued for the purpose of seeking employment shall be limited to Monday through Friday between the hours of 8 a.m. and 12 p.m. The Department of Healthcare and Family Services may direct the issuance of a permit only if the obligor has proven to the Department's satisfaction that no alternative means of transportation is reasonably available for the above stated purposes.

The Department of Healthcare and Family Services shall report to the Secretary of State the finding granting a permit on a form prescribed by the Secretary of State. The form shall state the purpose for which the permit has been granted, the specific days and hours for which limited driving privileges are allowed, and the duration of the permit.

The family financial responsibility driving permit shall be subject to cancellation, invalidation, suspension, and

revocation by the Secretary of State in the same manner and for the same reasons as a driver's license may be cancelled, invalidated, suspended, or revoked.

As directed by the Department of Healthcare and Family Services, the Secretary of State shall issue a family financial responsibility driving permit, but only if the obligor's driving privileges are valid except for the family financial responsibility suspension. The permit shall state the purpose or purposes for which it was granted under this subsection, the specific days and hours for which limited driving privileges are allowed, and the duration of the permit.

If the Department of Healthcare and Family Services directive to issue a family financial responsibility driving permit contains insufficient data or fails to comply with any provision of this Code, a permit shall not be issued and the directive shall be returned to the Department of Healthcare and Family Services. The Secretary of State shall also send notice of the return of the Department's directive to the obligor requesting the permit.

(c) In accordance with 49 C.F.R. Part 384, the Secretary of State may not issue a family financial responsibility driving permit to any person for the operation of a commercial motor vehicle if the person's driving privileges have been suspended under any provisions of this Code.

(Source: P.A. 96-1284, eff. 1-1-11.)

(625 ILCS 5/7-703)

Sec. 7-703. Courts to report non-payment of court ordered support or orders concerning driving privileges.

(a) The clerk of the circuit court, as provided in subsection (b) of Section 505 of the Illinois Marriage and Dissolution of Marriage Act or as provided in Section 15 of the Illinois Parentage Act of 1984, shall forward to the Secretary of State, on a form prescribed by the Secretary, an authenticated document certifying the court's order suspending the driving privileges of the obligor. For any such certification, the clerk of the court shall charge the obligor a fee of \$5 as provided in the Clerks of Courts Act.

(b) If an obligor has been adjudicated in arrears in court ordered child support payments in an amount equal to 90 days obligation or more but has not been held in contempt of court, the circuit court may order that the obligor's driving privileges be suspended. If the circuit court orders that the obligor's driving privileges be suspended, it shall forward to the Secretary of State, on a form prescribed by the Secretary, an authenticated document certifying the court's order suspending the driving privileges of the obligor. The authenticated document shall be forwarded to the Secretary of State by the court no later than 45 days after entry of the order suspending the obligor's driving privileges.

(c) The clerk of the circuit court, as provided in subsection (c-1) of Section 607.1 of the Illinois Marriage and

Dissolution of Marriage Act, shall forward to the Secretary of State, on a form prescribed by the Secretary, an authenticated document certifying the court's order suspending the driving privileges of the party. For any such certification, the clerk of the court shall charge the party a fee of \$5 as provided in the Clerks of Courts Act.

(d) If a party has been adjudicated to have engaged in visitation abuse, the circuit court may order that the party's driving privileges be suspended. If the circuit court orders that the party's driving privileges be suspended, it shall forward to the Secretary of State, on a form prescribed by the Secretary, an authenticated document certifying the court's order suspending the driving privileges of the party. The authenticated document shall be forwarded to the Secretary of State by the court no later than 45 days after entry of the order suspending the party's driving privileges.

(Source: P.A. 91-613, eff. 7-1-00.)

(625 ILCS 5/7-704)

Sec. 7-704. Suspension to continue until compliance with court order of support.

(a) The suspension of a driver's license shall remain in effect unless and until the Secretary of State receives authenticated documentation that the obligor is in compliance with a court order of support or that the order has been stayed by a subsequent order of the court. Full driving privileges

shall not be issued by the Secretary of State until notification of compliance has been received from the court. The circuit clerks shall report the obligor's compliance with a court order of support to the Secretary of State, on a form prescribed by the Secretary.

(a-1) The suspension of a driver's license shall remain in effect unless and until the Secretary of State receives authenticated documentation as to the person who violated a visitation order that the court has determined that there has been sufficient compliance for a sufficient period of time with the court's order concerning visitation and that full driving privileges shall be reinstated or that the order has been stayed by a subsequent order of the court. Full driving privileges shall not be issued by the Secretary of State until notification has been received from the court. The circuit clerk shall report any court order in which the court determined that there has been sufficient compliance for a sufficient period of time with the court's order concerning visitation and that full driving privileges shall be reinstated to the Secretary of State on a form prescribed by the Secretary.

(b) Whenever, after one suspension of an individual's driver's license for failure to pay child support, another order of non-payment is entered against the obligor and the person fails to come into compliance with the court order of support, then the Secretary shall again suspend the driver's

license of the individual and that suspension shall not be removed unless the obligor is in full compliance with the court order of support and has made full payment on all arrearages.

(b-1) Whenever, after one suspension of an individual's driver's license for failure to abide by a visitation order, another order finding visitation abuse is entered against the person and the court orders the suspension of the person's driver's license, then the Secretary shall again suspend the driver's license of the individual and that suspension shall not be removed until the court has determined that there has been sufficient compliance for a sufficient period of time with the court's order concerning visitation and that full driving privileges shall be reinstated.

(c) Section 7-704.1, and not this Section, governs the duration of a driver's license suspension if the suspension occurs as the result of a certification by the Illinois Department of Healthcare and Family Services under subsection (c) of Section 7-702.

(Source: P.A. 95-685, eff. 10-23-07.)

(625 ILCS 5/7-705)

Sec. 7-705. Notice. The Secretary of State, prior to suspending a driver's license under this Chapter, shall serve written notice upon a person ~~an obligor~~ that the individual's driver's license will be suspended in 60 days from the date on the notice unless (i) the person ~~obligor~~ satisfies the court

order of support or the court ordered visitation and the circuit clerk notifies the Secretary of State of this compliance or (ii) if the Illinois Department of Healthcare and Family Services has made a certification to the Secretary of State under subsection (c) of Section 7-702, the Department notifies the Secretary of State that the person licensed has paid the support delinquency in full or has arranged for payment of the delinquency and current support obligation in a manner satisfactory to the Department.

(Source: P.A. 95-685, eff. 10-23-07.)

(625 ILCS 5/7-705.2 new)

Sec. 7-705.2. Notice of noncompliance with visitation order. Before forwarding to the Secretary of State the authenticated document under Section 7-703, the circuit court must serve notice upon the person of its intention to suspend the person's driver's license for being adjudicated as having violated a visitation order in a manner deemed to be visitation abuse. The notice must inform the person that:

(1) The person may contest the issue of compliance at a hearing;

(2) A request for a hearing must be made in writing and must be received by the clerk of the circuit court;

(3) If the person does not request a hearing to contest the issue of compliance within 45 days after the notice of noncompliance is mailed, the court may order that the

person's driver's license be suspended as provided for in Section 7-703;

(4) If the circuit court certifies the person to the Secretary of State for noncompliance with a visitation order, the Secretary of State must suspend any driver's license or instruction permit the person holds and the person's right to apply for or obtain a driver's license or instruction permit until the court has determined that there has been sufficient compliance for a sufficient period of time with the court's order concerning visitation and that full driving privileges shall be reinstated;

(5) If the person files a motion to modify visitation with the court or requests that the court modify a visitation obligation, the circuit court shall stay action to certify the person to the Secretary of State concerning court ordered visitation; and

(6) The notice must include the address and telephone number of the clerk of the circuit court. The clerk of the circuit court shall attach a copy of the person's visitation order to the notice. The notice must be served by certified mail, return receipt requested, by service in hand, or as specified in the Code of Civil Procedure.

(625 ILCS 5/7-706)

Sec. 7-706. Administrative hearing. A driver may contest this driver's license sanction by requesting an administrative

hearing in accordance with Section 2-118 of this Code. If a written request for this hearing is received prior to the effective date of the suspension, the suspension shall be stayed. If a stay of the suspension is granted, it shall remain in effect until a hearing decision is entered. At the conclusion of this hearing, the Secretary of State may rescind or impose the driver's license suspension. If the suspension is upheld, it shall become effective 10 days from the date the hearing decision is entered. If the decision is to rescind the suspension, no suspension of driving privileges shall be entered. The scope of this hearing shall be limited to the following issues:

(a) Whether the driver is the person who owes a duty to make payments under the court or administrative order of support or is the person with obligations under a visitation order.

(b) Whether (i) the authenticated document of a court order of support or visitation order indicates that the obligor is 90 days or more delinquent or has been adjudicated in arrears in an amount equal to 90 days obligation or more and has been found in contempt of court for failure to pay child support or (ii) the certification of the Illinois Department of Healthcare and Family Services under subsection (c) of Section 7-702 indicates that the person is 90 days or more delinquent in payment of support under an order of support issued by a court or administrative body of this or any other State.

(b-1) Whether the authenticated document of a visitation order indicates that the person has violated a visitation order and has been found to have engaged in visitation abuse and has been found in contempt of court for failure to abide by a visitation order.

(c) Whether (i) a superseding authenticated document of any court order of support has been entered or (ii) the Illinois Department of Healthcare and Family Services, in a superseding notification, has informed the Secretary of State that the person certified under subsection (c) of Section 7-702 has paid the support delinquency in full or has arranged for payment of the delinquency and current support obligation in a manner satisfactory to the Department.

(c-1) Whether a superseding authenticated document of any court order concerning visitation has been entered, in a superseding notification, has informed the Secretary of State that as to the person the court has determined that there has been sufficient compliance for a sufficient period of time with the court's order concerning visitation and that full driving privileges shall be reinstated.

(Source: P.A. 95-685, eff. 10-23-07.)

(625 ILCS 5/7-708)

Sec. 7-708. Rules. The Secretary of State, using the authority to license motor vehicle operators, may adopt such rules as may be necessary to establish standards, policies, and

procedures for the suspension of driver's licenses for non-compliance with a court or administrative order of support or with a visitation order.

(Source: P.A. 95-685, eff. 10-23-07.)

Section 10. The Illinois Marriage and Dissolution of Marriage Act is amended by changing Section 607.1 as follows:

(750 ILCS 5/607.1) (from Ch. 40, par. 607.1)

Sec. 607.1. Enforcement of visitation orders; visitation abuse.

(a) The circuit court shall provide an expedited procedure for enforcement of court ordered visitation in cases of visitation abuse. Visitation abuse occurs when a party has willfully and without justification: (1) denied another party visitation as set forth by the court; or (2) exercised his or her visitation rights in a manner that is harmful to the child or child's custodian.

(b) An Action may be commenced by filing a petition setting forth: (i) the petitioner's name, residence address or mailing address, and telephone number; (ii) respondent's name and place of residence, place of employment, or mailing address; (iii) the nature of the visitation abuse, giving dates and other relevant information; (iv) that a reasonable attempt was made to resolve the dispute; and (v) the relief sought.

Notice of the filing of the petitions shall be given as

provided in Section 511.

(c) After hearing all of the evidence, the court may order one or more of the following:

(1) Modification of the visitation order to specifically outline periods of visitation or restrict visitation as provided by law.

(2) Supervised visitation with a third party or public agency.

(3) Make up visitation of the same time period, such as weekend for weekend, holiday for holiday.

(4) Counseling or mediation, except in cases where there is evidence of domestic violence, as defined in Section 1 of the Domestic Violence Shelters Act, occurring between the parties.

(5) Other appropriate relief deemed equitable.

(c-1) When the court issues an order holding a party in contempt for violation of a visitation order and finds that the party engaged in visitation abuse, the court may order one or more of the following:

(1) Suspension of a party's Illinois driving privileges pursuant to Section 7-703 of the Illinois Vehicle Code until the court determines that the party is in compliance with the visitation order. The court may also order that a party be issued a family financial responsibility driving permit that would allow limited driving privileges for employment, for medical purposes,

and to transport a child to or from scheduled visitation in order to comply with a visitation order in accordance with subsection (a-1) of Section 7-702.1 of the Illinois Vehicle Code.

(2) Placement of a party on probation with such conditions of probation as the court deems advisable.

(3) Sentencing of a party to periodic imprisonment for a period not to exceed 6 months; provided, that the court may permit the party to be released for periods of time during the day or night to:

(A) work; or

(B) conduct a business or other self-employed occupation.

(4) Find that a party in engaging in visitation abuse is guilty of a petty offense and should be fined an amount of no more than \$500 for each finding of visitation abuse.

(d) Nothing contained in this Section shall be construed to limit the court's contempt power, except as provided in subsection (g) of this Section.

(e) When the court issues an order holding a party in contempt of court for violation of a visitation order, the clerk shall transmit a copy of the contempt order to the sheriff of the county. The sheriff shall furnish a copy of each contempt order to the Department of State Police on a daily basis in the form and manner required by the Department. The Department shall maintain a complete record and index of the

contempt orders and make this data available to all local law enforcement agencies.

(f) Attorney fees and costs shall be assessed against a party if the court finds that the enforcement action is vexatious and constitutes harassment.

(g) A person convicted of unlawful visitation or parenting time interference under Section 10-5.5 of the Criminal Code of 1961 shall not be subject to the provisions of this Section and the court may not enter a contempt order for visitation abuse against any person for the same conduct for which the person was convicted of unlawful visitation interference or subject that person to the sanctions provided for in this Section.

(Source: P.A. 96-333, eff. 8-11-09; 96-675, eff. 8-25-09.)

Section 99. Effective date. This Act takes effect upon becoming law.