Resolution 07-03-2018 suspension of professional licenses.pdf

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RESOLUTION 07-03-2018

DIGEST
Child Support: Repeal Suspension of Professional License for Non-Payment
Deletes Business and Professions Code section 490.5 to no longer allow the suspension of a professional license due to non-payment of child support.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to delete Business and Professions Code section 490.5 to read as follows:

§ 490.5
A board may suspend a license pursuant to Section 17520 of the Family Code if a licensee is not in compliance with a child support order or judgment.

(Proposed new language underlined, language to be deleted stricken)

PROPONEENT: San Mateo County Bar Association

STATEMENT OF REASONS

The Problem: Since 1994 Family Code section 17520 and Business & Professions Code section 490.5 requires the suspension of a business, occupational or professional license of a parent who is required to pay child if the obligor parent falls in arrears in his or her support obligation.

When the business, occupational or professional license of a child support obligor parent is suspended for accruing a support arrearage it is much more difficult for that parent to earn the very income he or she was deriving from his or her business, occupational or professional license – which would enable that parent to pay his or her child support obligation. This is a classic catch-22 situation wherein the leverage of enforcement by suspending a license is counterproductive and causes further harm to the children by causing the obligor parent to fall deeper and deeper in arrears.

The Solution: This resolution would repeal Business & Professions Code section 490.5, which allows the suspension of business, occupational or professional licenses for failure to pay child support. Section 490.5 should be repealed because in order to be able to pay child support, the obligor parent with a business, occupational or professional license must be able to engage in his or her business, occupation or profession. In addition, this type of enforcement is not necessary because there are several other mechanisms to enforce the collection of child support. For example, a parent’s wages can be garnished (Family Code section 17500) and financial assets or personal property can be levied upon and seized. (Family Code section 17522; see also, Family Code sections 17500 – 17561, with numerous programs for Collections and Enforcement.) Thus, Business & Professions Code section 490.5 should be repealed in its entirety.

IMPACT STATEMENT

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42 U.S.C. section 666(a)(16)

If implemented, this resolution might affect California’s federal grant funding from the “Child Support Enforcement Program.”

CURRENT OR PRIOR RELATED LEGISLATION
Added by Stats. 1994, c. 906. (AB 923), section 1; Amended by Stats. 2018. C. 328 SB 1330, section 3.

Family Code section 17520, added by Stats 1999 c. 478 (AB 196).


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