

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 780

Short Title: Distribute IV-D Support in 10 Days.

(Public)

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Sponsors: Senator Marvin.

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Referred to: State Government.

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April 5, 1989

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT CHILD SUPPORT IN IV-D NON-AFDC CASES BE  
DISTRIBUTED TO THE CUSTODIAL PARTY WITHIN TEN DAYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 110-130.1 reads as rewritten:

**"§ 110-130.1. Non-AFDC services.**

(a) All child support collection and paternity determination services provided under this Article to recipients of public assistance shall be made available to any individual not receiving public assistance in accordance with federal law and as contractually authorized by the nonrecipient, upon proper application and payment of an appropriate nonrefundable application fee. For applicants whose gross household income is equal to or less than two hundred percent (200%) of the then currently established poverty level applicable to the applicant's household size, the application fee shall be five dollars (\$5.00). For applicants whose gross household income exceeds such poverty level, the application fee shall be twenty-five dollars (\$25.00).

For purposes of this section, 'household income' means the sum of the gross amount of periodically recurring income which accrues to the members of a collective group of individuals living in one residence consisting of a natural or adoptive parent who has custody of a dependent child or children whose other natural or adoptive parent is absent from the residence, the custodial parent's current spouse, and all other dependent children. 'Household size' means the sum of the persons specified as living in the residence as described above.

1 (b) Except for the application fee, the State shall not recover the costs or fees of  
2 providing services to a non-AFDC client whose household income is equal to or less  
3 than two hundred percent (200%) of the federal poverty guidelines.

4 (b1) The State shall recover the actual costs of providing services to a non-AFDC  
5 client whose gross household income exceeds two hundred percent (200%) of the then  
6 currently established federal poverty level applicable to the client's household size until  
7 all costs incurred on the client's behalf have been recovered. The rate of accrual of such  
8 costs shall be computed annually by the Department of Human Resources and disclosed  
9 at the time of application to the client as an hourly dollar amount for administrative  
10 services and an hourly dollar amount for attorney's services. Incurred costs may be  
11 recovered by any or all of the following means:

- 12 (1) a ten percent (10%) deduction from any support received;
- 13 (2) voluntary payments from either the responsible parent or client;
- 14 (3) payments by the responsible parent which the court may order, only if  
15 such payments do not reduce the responsible parent's ability to pay  
16 current support and arrears.

17 The appropriate judicial official shall be informed of the available cost recovery  
18 methods at the time a support order is sought.

19 A client from whom costs can be recovered pursuant to this subsection shall be  
20 liable for prepayment of any necessary court filing fees and paternity blood testing fees.

21 In all cases where ongoing enforcement services are being provided to a client from  
22 whom costs can be recovered pursuant to this subsection, or in cases in which ongoing  
23 enforcement services are no longer being provided but for whom costs were incurred  
24 and can be recovered pursuant to this subsection, or in cases in which a public  
25 assistance debt which accrued pursuant to G.S. 110-135 remains unrecovered, support  
26 payments shall be transmitted to the Department of Human Resources for appropriate  
27 distribution. When services are terminated and all costs and any public assistance debts  
28 have been satisfied, the support payment shall be redirected to the client.

29 Any costs incurred pursuant to this section shall constitute a debt owed to the State  
30 by the client. Any costs ordered by the court under subdivision (3) above shall  
31 constitute a debt owed to the State by the responsible parent. Payment may be  
32 demanded from either or both of them.

33 (c) Actions or proceedings to establish or enforce a duty of support initiated  
34 under this Article shall be brought in the name of the county or State agency on behalf  
35 of the public assistance recipient or nonrecipient client. Collateral disputes between a  
36 custodial parent and noncustodial parent, involving visitation, custody and similar  
37 issues, shall be considered only in separate proceedings from actions initiated under this  
38 Article. The attorney representing the designated representative of programs under Title  
39 IV-D of the Social Security Act shall be deemed attorney of record only for proceedings  
40 under this Article, and not for such separate proceedings.

41 (d) Any fee imposed by the North Carolina Department of Revenue or the  
42 Secretary of the Treasury to cover their costs of withholding for non-AFDC arrearages  
43 certified for the collection of past due support from State or federal income tax refunds  
44 shall be borne by the client by deducting the fee from the amount collected.

1 Any income tax refund offset amounts which are subsequently determined to have  
2 been incorrectly withheld and distributed to a client, and which must be refunded by the  
3 State to a responsible parent or the nondebtor spouse, shall constitute a debt to the State  
4 owed by the client.

5 (e) Child support in IV-D non-AFDC cases shall be distributed to the custodial  
6 party within 10 days from the date the State IV-D Office receives the child support  
7 payment, except for tax set-off collections."

8 Sec. 2. This act shall become effective October 1, 1989, and shall apply to all  
9 distributions of child support on or after that date.