

Child Support Enforcement Remedies

<p>Contempt (Civil or Criminal) GS 50-13.4(f)(9) GS 5A-11 et seq; GS 5A-21 et seq</p>	<p>Judicial. IV-D & non-IV-D. See table comparing criminal and civil contempt in child support enforcement proceedings.</p>
<p>Income Withholding (Wages) GS 50-13.4(f)(4); GS 110-136; GS 110-136.3 et seq</p>	<p>Judicial & administrative. IV-D & non-IV-D. "Immediate" withholding without delinquency (IV-D orders entered after 9/30/89 and new non-IV-D orders entered after 12/31/93). IV-D: delinquent (one month). Non-IV-D: delinquent (one month) or erratic. Amount withheld includes current support plus payment on arrearage. Limits: 40%, 45%, or 50% of "disposable" income.</p>
<p>Income Withholding (Unemployment Compensation) GS 110-136.2; GS 96-17</p>	<p>Administrative. IV-D only. Voluntary assignment or garnishment (25% limit).</p>
<p>Income Withholding (Other) GS 110-136.3 et seq</p>	<p>Judicial & administrative. IV-D & non-IV-D. See income withholding (wages). Periodic payment regardless of source including self-employment income, payments to independent contractors; workers compensation; pensions & retirement benefits; annuities; survivor & disability benefits; interest & dividends; rents & royalties; payments from trusts, etc. but not including public assistance (SSI, Work First, etc.) or unemployment compensation (see above).</p>
<p>Judgment (Arrearages) GS 50-13.4(f)(8)</p>	<p>Judicial. IV-D & non-IV-D. Finding of willful nonpayment is <i>not</i> required (<i>Bogan v. Bogan</i>). Statute of limitations: 10 years from date due (GS 1-47; <i>State ex rel Pruitt v. Pruitt</i>). Reducing child support arrearage to judgment does not preclude enforcement via means other than writ of execution (<i>Griffin v. Griffin</i>). Constitutional and statutory exemptions inapplicable (GS 1C-1601(e)(9)).</p>
<p>Judgment Lien GS 50-13.4(f)(8)</p>	<p>Judicial. IV-D & non-IV-D. Obligor's interest in real property in county in which judgment or transcript of judgment is docketed. Enforced via execution.</p>
<p>Execution GS 50-13.4(f)(10); GS 1-302 et seq; GS 1-339.41 et seq</p>	<p>Judicial. IV-D & non-IV-D. Arrearage must be reduced to judgment or lien. Obligor's interest in real property (except tenant by entirety) subject to prior liens & obligor's interest in tangible personal property in obligor's possession subject to prior liens (not intangible personal property owned by obligor or tangible or intangible personal property owned by obligor in possession of others).</p>

<p>Supplemental Proceedings GS 50-13.4(f)(10); GS 1-352 et seq</p>	<p>Judicial. IV-D & non-IV-D. Arrearage must be reduced to judgment or lien. Unsatisfied writ of execution. Obligor's tangible property in possession of others. Debts owed to obligor by others (including bank accounts owned by obligor).</p>
<p>Execution (Bank Accounts, Debts) GS 50-13.4(f)(10); GS 1-359</p>	<p>Judicial. IV-D & non-IV-D. Arrearage must be reduced to judgment or lien. Writ of execution issued. Although obligor's bank account or debt owed to obligor is not directly subject to execution, bank or debtor may voluntarily pay account or debt to sheriff in response to writ of execution to extent necessary to satisfy execution. Issues: IV-D FIDM, freeze and seize; no protection for co-owners; no really good remedy for garnishing bank accounts.</p>
<p>Statutory Lien (Arrearages) GS 44-86 et seq</p>	<p>Judicial. IV-D & non-IV-D. Delinquent = three months or \$3000; finding of willful nonpayment is <i>not</i> required. Procedure for perfecting lien is different in IV-D vs. non-IV-D cases. General lien on obligor's real and (tangible) personal property in county in which lien or transcript of lien is docketed. Lien on real property attaches when lien is docketed. Lien on personal property attaches when property is seized under writ of execution. Lien is enforced via writ of execution (see above).</p>
<p>Lien (Insurance Benefits) GS 58-3-185</p>	<p>Nonjudicial. IV-D & non-IV-D. Delinquent = \$3000; finding of willfulness is <i>not</i> required. Applies to benefits payable by insurance company authorized to issue policies under GS Ch. 58 to obligor as claimant or beneficiary under insurance policy or contract (life, home, auto, health, etc.). Attaches when notice is provided to insurance company. Lien is subordinate to liens under GS 44-49 and GS 44-50 and to valid claims of health care providers under health insurance policies (other than disability income insurance).</p>
<p>Additional Payment on Arrearage GS 110-129.1(a)(8)c; GS 110-136.3(a1); GS 110-142.1(h); GS 110-142.2(b); GS 50-13.12(b)</p>	<p>Judicial. IV-D & non-IV-D. See <i>Bogan v. Bogan</i>.</p>
<p>License Revocation GS 50-13.12; GS 110-142 et seq</p>	<p>Judicial & administrative. IV-D & non-IV-D. Delinquent = one month (non-IV-D). Delinquent = 90 days or noncompliance with payment schedule (IV-D). Occupational, professional, business, hunting, fishing, trapping, drivers (regular & commercial) licenses (IV-D & non-IV-D); motor vehicle registration (IV-D only). IV-D: administrative revocation (occupational, professional, business).</p>
<p>State Income Tax Refund Offset GS 105A-1 et seq</p>	<p>Administrative. IV-D only. Delinquent = \$50+. Tax refund = \$50+. Agency must determine that debt is not in dispute and that alternative collection methods are inadequate. Post-offset notice and administrative appeal (APA) and judicial review.</p>

<p>Federal Income Tax Refund Offset 42 USC 664; 45 CFR 303.72</p>	<p>Administrative. IV-D only. Delinquency = \$500+ (non-TANF); minor child. Advance notice of offset. Protection for innocent spouses who file jointly. Administrative appeal (APA). Note: obligor is <i>not</i> delinquent if he or she is complying with approved payment schedule (<i>Davis v. NC Dept. of Human Resources</i>).</p>
<p>Bond (Future Compliance) GS 50-13.4(f)(1)</p>	<p>Judicial. IV-D & non-IV-D.</p>
<p>Assignment of Wages & Income GS 50-13.4(f)(1); GS 110-136.1 GS 95-31; GS 97-21</p>	<p>Judicial & nonjudicial. IV-D & non-IV-D.</p>
<p>Military Allotment 42 USC 665; 32 CFR 54.3 et seq</p>	<p>Judicial & administrative. IV-D & non-IV-D. Delinquency = two months. Non-IV-D: court request only.</p>
<p>Credit Reporting 42 USC 666(a)(7); 45 CFR 303.105</p>	<p>Administrative. IV-D only. Delinquency = \$1000+. Advance notice required.</p>
<p>Publicity (Most Wanted Posters) GS 110-130.1(c1)</p>	<p>Administrative. IV-D only.</p>
<p>Attorneys Fees GS 50-13.6</p>	<p>Judicial. IV-D & non-IV-D. Interested party acting in good faith; insufficient means. Obligor has refused to provide adequate support.</p>
<p>Mortgage, Deed of Trust GS 50-13.4(f)(1)</p>	<p>Judicial. IV-D & non-IV-D.</p>
<p>Property Transfer GS 50-13.4(f)(2); GS 50-13.4(e) GS 1-228; GS 1A-1, Rule 70</p>	<p>Judicial. IV-D & non-IV-D.</p>
<p>Community Service; Job Training GS 50-13.4(b); GS 110-132(b)</p>	<p>Judicial. IV-D only.</p>
<p>Passport Denial or Revocation 42 USC 652(k); 42 USC 654(31)</p>	<p>Administrative. IV-D only. Delinquent = \$5000+. Advance notice required.</p>
<p>IRS "Full Collection" 42 USC 652(b); 26 USC 6305</p>	<p>Administrative. IV-D only. Delinquent = \$750+. Other remedies inadequate.</p>

Health Plan Enrollment GS 50-13.11; GS 108A-69; GS 58-51-120	Judicial & administrative. IV-D & non-IV-D.
Appointment of Receiver GS 50-13.4(f)(6); GS 1-501 et seq	Judicial. IV-D & non-IV-D.
Injunction GS 50-13.4(f)(5) GS 1-485; GS 1A-1, Rule 65	Judicial. IV-D & non-IV-D.
Voiding Fraudulent Transfers GS 50-13.4(f)(7); GS 39-23.1 et seq	Judicial. IV-D & non-IV-D.
Interstate Enforcement (UIFSA) GS 52C-101 et seq	Judicial & administrative. IV-D & non-IV-D. Registration for enforcement. "Direct" income withholding.
Criminal Nonsupport (State) GS 14-322; GS 14-322.1; GS 49-2	Judicial. IV-D & non-IV-D.
Criminal Nonsupport (Federal) 18 USC 228	Judicial. IV-D & non-IV-D. Child Support Recovery Act. Willful failure to pay child support. At least one year or \$5,000. Child resides in another state; interstate travel & intent to evade. Misdemeanor or felony. Restitution. US Dept. of Justice criteria for federal prosecution (high profile cases, pattern of evasion or deception, inadequate state remedies).
Attachment & Garnishment GS 50-13.4(f)(4); GS 1-440.2 et seq	Judicial. IV-D & non-IV-D. Pre-judgment remedy only.
Arrest & Bail GS 50-13.4(f)(3); GS 1-410 et seq	Judicial. IV-D & non-IV-D. Pre-judgment remedy only.

Note: Child support enforcement remedies are not mutually exclusive. Griffin v. Griffin, 103 NCApp 65, 404 SE2d 478 (1991).