

HOUSE BILL 107
EMERGENCY BILL

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2003 Regular Session
3lr1135

By: **Delegate Jones**

Introduced and read first time: January 23, 2003

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 4, 2003

CHAPTER 118

1 AN ACT concerning

2 **Child Support Enforcement - Earnings Withholding**

3 FOR the purpose of requiring that, when a court orders immediate service of an
4 earnings withholding order, the court order payments through the State
5 disbursement unit; ~~requiring an employer to provide an obligor with a copy of an~~
6 ~~earnings withholding notice within a certain period after the employer has been~~
7 ~~served with the notice; repealing the requirement that the Child Support~~
8 ~~Enforcement Administration send to the obligor certain documents by certified~~
9 ~~mail under certain circumstances; authorizing a parent or support enforcement~~
10 ~~agency to use means other than certified mail, as approved by the~~
11 ~~Administration, to send to the parent's employer a copy of an order to provide~~
12 ~~health insurance coverage; making certain conforming changes; making this Act~~
13 an emergency measure; and generally relating to child support enforcement.

14 BY repealing and reenacting, with amendments,

15 Article - Family Law

16 Section 10-123, ~~10-124, and 12-102(d)(1)~~ 10-128(a), and 10-129(a)

17 Annotated Code of Maryland

18 (1999 Replacement Volume and 2002 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

Article - Family Law

10-123.

(a) Except as otherwise provided for in this section and notwithstanding any other provision of this Part III, a court shall immediately authorize service of an earnings withholding order when:

(1) (i) a support order or modification of support order is passed on or after April 9, 1991;

(ii) a case is being enforced by a support enforcement agency; and

(iii) the recipient or support enforcement agency requests service of an earnings withholding order; or

(2) the Department of Health and Mental Hygiene requests service of an earnings withholding order for court ordered medical support.

(b) Except as provided in subsection (d) of this section, for all child support orders that are initially issued in the State on or after January 1, 1994, regardless of whether child support payments are in arrears, a court shall immediately authorize service of an earnings withholding order on the effective date of the order.

(c) [(1) Except as provided in paragraph (2) of this subsection, when] WHEN a court orders immediate service of an earnings withholding order on or after July 1, 1994, the court shall order payments[:

(i) in a case in which the Administration is providing support services,] through the State disbursement unit[; or

(ii) directly to the obligee's bank account.

(2) A party may request and the court may order that an employer send payments directly to the obligee].

(d) A court may not authorize the immediate service of an earnings withholding order if:

(1) any party demonstrates, and the court finds, that there is good cause to not require immediate earnings withholding; or

(2) the court approves of the terms of a written agreement of the parties providing for an alternative method of payment.

(e) If the court authorizes the immediate service of an earnings withholding order, the court shall immediately cause a copy of the earnings withholding order to be served on any employer of the obligor.

1 ~~10-124.~~

2 (a) Except as otherwise provided in this Part III, the Administration may
3 serve an earnings withholding notice on an employer of an obligor without the need
4 for any modification of the support order or any further action by a tribunal if:

5 (1) (i) a tribunal has issued a support order; and

6 (ii) the Administration is providing child support services under
7 Title IV, Part D, of the Social Security Act; or

8 (2) an obligor requests the service of an earnings withholding notice.

9 (b) The Administration may serve an employer with an earnings withholding
10 notice using an electronic format if the employer has entered into an agreement with
11 the Administration to accept service of an earnings withholding notice in this manner.

12 (c) When the Administration serves an employer with an earnings
13 withholding notice under this section[.],

14 (1) THE EMPLOYER SHALL PROVIDE THE OBLIGOR WITH A COPY OF THE
15 NOTICE WITHIN 2 DAYS AFTER THE EMPLOYER RECEIVES THE NOTICE; AND

16 (2) the Administration shall send to the obligor, by [certified mail,
17 return receipt requested, and] first class mail, at the obligor's last known home
18 address or, if the home address is unknown, the place of employment last reported to
19 the court:

20 [(1)] (I) a copy of the earnings withholding notice;

21 [(2)] (II) a statement of the procedures under § 10-134 of this subtitle
22 that the obligor must follow to terminate earnings withholding;

23 [(3)] (III) a statement of the obligor's right to contest the accuracy of the
24 information provided in the earnings withholding notice by filing a motion for a stay
25 of the earnings withholding notice in circuit court or requesting an investigation no
26 later than 15 days after a copy of the withholding notice is mailed to the obligor under
27 this section; and

28 [(4)] (IV) a statement of the amount of arrears apportioned to each
29 payment that is to be included in the amount of earnings withheld under § 10-122 of
30 this subtitle.

31 (d) The only issues that may be adjudicated at a hearing or contested in an
32 investigation under subsection [(c)(3)]-(C)(2)(III) of this section are:

33 (1) whether an arrearage existed;

34 (2) the amount of the withholding or the amount of any arrearage;

35 (3) the identity of the obligor; or

1 (4) that the amount of the withholding notice exceeds the limits of the
2 federal Consumer Credit Protection Act.

3 (e) (1) If an obligor requests an investigation, the Administration shall:

4 (i) conduct an investigation within 15 days after the obligor's
5 request; and

6 (ii) on completion of the investigation, notify the obligor of the
7 results of the investigation and the obligor's right to appeal the decision of the
8 Administration to the Office of Administrative Hearings.

9 (2) An appeal under paragraph (1)(ii) of this subsection shall be
10 conducted in accordance with Title 10, Subtitle 2 of the State Government Article.
11 ~~12-102.~~

12 (d) (1) If a court orders a parent to provide health insurance coverage under
13 this section, the parent under the order or the support enforcement agency shall send
14 a copy of the order or medical support notice to the parent's employer by certified
15 mail, return receipt requested, ~~OR BY OTHER MEANS APPROVED BY THE CHILD~~
16 ~~SUPPORT ENFORCEMENT ADMINISTRATION~~, separate from or in conjunction with an
17 earnings withholding order, as provided in § 10-123 of this article.

18 ~~10-128.~~

19 (a) An earnings withholding order or an earnings withholding notice sent to
20 the obligor's employer shall:

21 (1) be a separate document, and not include any other orders or
22 pleadings; and

23 (2) include only the following information:

24 (i) the amount to be withheld from the obligor's earnings including
25 explanation of the application of the federal Consumer Credit Protection Act limits;

26 (ii) that subject to further orders of the tribunal, the employer is
27 required to withhold the stated amount on a regular and continuing basis
28 commencing on the beginning of the next pay period after receipt of the earnings
29 withholding order or the earnings withholding notice;

30 (iii) that the employer may deduct and retain from the employee's
31 earnings an additional \$2 for each deduction made under the earnings withholding
32 order or earnings withholding notice;

33 (iv) that the net amount withheld is to be sent promptly to the State
34 disbursement unit [or the recipient as specified in the order]; and

35 (v) any other information that the employer needs to comply with
36 the earnings withholding order or earnings withholding notice.

1 10-129.

2 (a) On receipt of a copy of an earnings withholding order or earnings
3 withholding notice an employer shall, beginning with the next pay period after
4 receipt of the earnings withholding order or earnings withholding notice:

5 (1) deduct the amount of the withholding from the obligor's earnings on
6 a regular basis; and

7 (2) send the deducted net amount directly to the State disbursement unit
8 [or the recipient, as specified in the earnings withholding order or earnings
9 withholding notice,] within 7 days not including Saturday, Sunday, or a legal holiday
10 after the day on which the earnings are paid to the obligor.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
12 measure, is necessary for the immediate preservation of the public health or safety,
13 has been passed by a ye and nay vote supported by three-fifths of all the members
14 elected to each of the two Houses of the General Assembly, and shall take effect from
15 the date it is enacted.