

Article - Family Law

[Previous][Next]

§10-1A-02.

(a) (1) An affidavit of support may be executed in the manner provided under this section if:

(i) a party is receiving child support enforcement services under Title IV, Part D, of the Social Security Act;

(ii) paternity of the child has been established;

(iii) a support conference has been conducted in which the Administration determined the amount of support in accordance with the child support guidelines provided in Title 12, Subtitle 2 of this article; and

(iv) the support conference resulted in an agreement by the parties.

(2) (i) The Administration shall set the amount of the support obligation in accordance with the guidelines.

(ii) Unless the Administration determines that application of the guidelines would be unjust or inappropriate in a particular case, the amount specified in the guidelines shall apply.

(iii) In determining whether application of the guidelines is unjust or inappropriate, the Administration may consider the factors stated in § 12-202 of this article.

(iv) If the Administration finds that application of the guidelines is unjust or inappropriate in a particular case, the Administration shall make a written finding on the record stating the reasons for departing from the guidelines.

(v) The Administration's finding shall state:

1. the amount of child support that would have been required under the guidelines;

2. how the affidavit of support varies from the guidelines;

3. how the finding serves the best interests of the child; and

4. in cases in which items of value are conveyed instead of a portion of the support presumed under the guidelines, the estimated value of the items conveyed.

(b) An affidavit of support shall be completed on a standardized form developed

by the Administration.

(c) (1) The completed affidavit of support form shall contain:

(i) a statement that the executed affidavit of support is a legal document and constitutes a legal finding of a support obligation;

(ii) the date of the signed affidavit of support;

(iii) the full names of the parties;

(iv) the full name and birth date of each child for whom support is to be paid;

(v) the support order amount, including an amount for current support, and an amount for arrears, if appropriate;

(vi) the frequency of child support to be paid, including the payment due date;

(vii) a provision for making child support payments payable to the State disbursement unit;

(viii) a provision for medical support;

(ix) a provision for immediate earnings withholding;

(x) a statement that if the obligor becomes delinquent in fulfilling the child support obligation, any enforcement remedy provided in accordance with State and federal law may be applied;

(xi) a statement that it is the responsibility of each party under the affidavit of support to advise the Administration of any change of address, employment, or medical support;

(xii) a statement that the provisions of the affidavit of support are subject to review by the Administration for possible modification on request of any party;

(xiii) a statement that the provisions of the affidavit of support remain in effect until the first of the following events occurs:

1. the child becomes an adult;
2. the child dies;
3. the child marries; or
4. the child becomes self-supporting;

(xiv) a statement that the provisions of the affidavit of support remain in effect until superseded by:

1. a court order; or
2. a subsequently executed affidavit of support;

(xv) any information that the Administration considers appropriate;
and

(xvi) the signatures of all parties and the date of the signatures.

(2) Before completing an affidavit of support form, the parties shall be advised orally and in writing of the legal consequences of executing the affidavit and of the right to seek legal counsel.

(3) The Administration shall provide each party with a copy of the executed affidavit of support.

(d) An executed affidavit of support constitutes a legal finding of a support obligation, subject to the right of any party to:

(1) rescind the affidavit in writing to the Administration within 60 days after execution of the affidavit; or

(2) challenge the affidavit of support in court on the basis of fraud, duress, or material mistake of fact or that the affidavit of support is not in accordance with the child support guidelines.

(e) Within 30 days after expiration of the 60-day rescission period specified in subsection (d)(1) of this section, the Administration shall file an affidavit of support with the clerk of a circuit court for approval by the court.

[Previous][Next]