

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL NO. 636

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Madden” and substitute “Madden, and Forehand”.

AMENDMENT NO. 2

On page 1, in line 3, strike “applicants” and substitute “an applicant”; in the same line, strike “their” and substitute “the”; in line 4, strike “numbers” and substitute “number of each party”; in line 9, after “parentage;” insert “establishing procedures for rescission of an affidavit of parentage;”; in line 11, strike “for” and substitute “to require certain individuals to submit to”; in line 15, strike “reports to be made by”; in line 16, after “institutions” insert “to report certain information to the Child Support Enforcement Administration”; in line 18, after “circumstances;” insert “authorizing the Child Support Enforcement Administration to issue subpoenas to compel the production of documents;”; in line 21, after “appeals;” insert “requiring certain licensing authorities to report certain information to the Child Support Enforcement Administration;”; in line 22, after “employers” insert “under certain circumstances”; in line 23, strike “failing to pay” and substitute “for unpaid”; in line 24, after “effect” insert “and enforcement”; and in line 34, after “circumstances;” insert “prohibiting certain documents from being excluded from evidence in certain proceedings on certain grounds; authorizing a certain inference to be drawn from a refusal to testify in certain proceedings;”.

On page 2, strike beginning with “authorizing” in line 2 down through “utilities;” in line 4; in line 4, after “institutions” insert “, public service companies, and energy providers”; in line 5, after “Administration” insert “under certain circumstances”; in the same line, after the first semicolon insert “providing that the child support guidelines may be grounds for requesting modification of a child support award under certain circumstances; altering certain procedures for certain employing units reporting certain information about certain employees; requiring the Child Support Enforcement Administration to establish a State disbursement unit for collection and disbursement of support payments in certain cases; requiring the Director of the Child Support Enforcement Administration to make a certain report to the General Assembly; requiring the Child Support”.

(Over)

Enforcement Administration to pay certain fees to certain financial institutions, public service companies, and energy providers; providing immunity from liability for certain financial institutions, employers, public service companies, energy providers, and labor unions for disclosing certain information to the Child Support Enforcement Administration and for taking certain other actions in good faith;; in line 5, after “definitions;” insert “providing for a delayed effective date for certain provisions of this Act;”; in line 11, after “10-101,” insert “10-108;”; in line 17, strike “and”; in the same line, after “12-105” insert “, and 12-202”; and in line 27, after “10-108.4,” insert “10-108.5.”.

AMENDMENT NO. 3

On page 7, in lines 26 and 27, strike “rebuttable presumption of parentage in a paternity proceeding” and substitute “LEGAL FINDING OF PATERNITY”.

On page 8, in line 7, strike the brackets; strike beginning with “EXCEPT” in line 7 down through “AN” in line 8; in line 9, strike “parentage in a”; strike beginning with “proceeding.” in line 9 down through “FACT” in line 19, and substitute: “, SUBJECT TO THE RIGHT OF ANY SIGNATORY TO RESCIND THE AFFIDAVIT:

(I) IN WRITING WITHIN 60 DAYS AFTER EXECUTION OF THE AFFIDAVIT; OR

(II) IN A JUDICIAL PROCEEDING RELATING TO THE CHILD:

1. IN WHICH THE SIGNATORY IS A PARTY; AND

2. THAT OCCURS BEFORE THE EXPIRATION OF THE 60-DAY PERIOD.

(2)(I) AFTER THE EXPIRATION OF THE 60-DAY PERIOD, AN EXECUTED AFFIDAVIT OF PARENTAGE MAY BE CHALLENGED IN COURT ONLY ON THE BASIS OF FRAUD, DURESS, OR MATERIAL MISTAKE OF FACT.

(II) THE BURDEN OF PROOF SHALL BE ON THE CHALLENGER TO SHOW FRAUD, DURESS, OR MATERIAL MISTAKE OF FACT.

(III) THE LEGAL RESPONSIBILITIES OF ANY SIGNATORY ARISING FROM THE AFFIDAVIT, INCLUDING CHILD SUPPORT OBLIGATIONS, MAY NOT BE SUSPENDED DURING THE CHALLENGE, EXCEPT FOR GOOD CAUSE SHOWN".

AMENDMENT NO. 4

On page 17, after line 11, insert:

"(3) A REQUEST FOR INFORMATION MAY NOT BE MADE BY THE ADMINISTRATION TO A LICENSING AUTHORITY MORE FREQUENTLY THAN FOUR TIMES IN EACH CALENDAR YEAR EXCEPT WITH RESPECT TO AN OBLIGOR WHOM THE ADMINISTRATION HAS REASON TO BELIEVE IS LICENSED BY, OR HAS APPLIED FOR A LICENSE FROM, THE LICENSING AUTHORITY.

(4) IN ADDITION TO REQUESTS FOR INFORMATION UNDER THIS SUBSECTION, THE ADMINISTRATION MAY REQUEST A LICENSING AUTHORITY TO PERIODICALLY SHARE ITS LICENSING DATABASE WITH THE ADMINISTRATION."

AMENDMENT NO. 5

On page 20, in line 27, strike "AND"; and in line 31, after "SECTION" insert "; AND

(5) A STATEMENT OF THE AMOUNT OF ARREARS APPORTIONED TO EACH PAYMENT THAT IS TO BE INCLUDED IN THE AMOUNT OF EARNINGS WITHHELD UNDER § 10-121 OF THIS SUBTITLE".

AMENDMENT NO. 6

On page 22, in line 32, after "(C)" insert "(1)"; and after line 33, insert:

"(2) A CHILD SUPPORT LIEN ESTABLISHED UNDER THIS PART IV OF THIS SUBTITLE MAY BE ENFORCED IN ACCORDANCE WITH THE MARYLAND RULES OF PROCEDURE."

AMENDMENT NO. 7

On page 47, in line 6, strike "§ 10-108.1" and substitute "§ 10-108.2"; in line 13, strike the

brackets; strike beginning with the first “THE” in line 13 down through “(B)” in line 15; in line 15, strike the brackets; in the same line, strike ““DATE””; strike line 17 in its entirety; in line 18, strike the first set of brackets; in the same line, strike “(D)””; in the same line, strike “(E)” and substitute “(C)””; in line 30, strike “UNEMPLOYMENT INSURANCE EMPLOYER IDENTIFICATION” and substitute “STATE UNEMPLOYMENT INSURANCE ACCOUNT”; in line 32, strike the brackets; in the same line, strike “(E)””; in line 34, strike “OR””; and in line 35, after “ELECTRONICALLY” insert “;OR

(III) OTHER MEANS AS DETERMINED BY THE SECRETARY”.

On page 48, in line 1, strike “TRANSMITS A REPORT” and substitute “CHOOSES TO TRANSMIT DATA”; in line 2, strike “MAY” and substitute “SHALL”; in lines 11, 20, and 24, in each instance, strike the brackets; and in lines 11, 20, and 24, strike “(F)”, “(G)”, and “(H)”, respectively.

AMENDMENT NO. 8

On page 13, strike beginning with “HAS” in line 14 down through “ARTICLE” in line 15 and substitute “MEANS:

(1) A DEPOSITORY INSTITUTION, AS DEFINED IN THE FEDERAL DEPOSIT INSURANCE ACT AT 12 U.S.C. §1813(C);

(2) A FEDERAL CREDIT UNION OR STATE CREDIT UNION, AS DEFINED IN THE FEDERAL CREDIT UNION ACT AT 12 U.S.C. §1752; AND

(3) A BENEFIT ASSOCIATION, INSURANCE COMPANY, SAFE DEPOSIT COMPANY, MONEY-MARKET MUTUAL FUND, OR SIMILAR ENTITY DOING BUSINESS IN THE STATE THAT HOLDS PROPERTY OR MAINTAINS ACCOUNTS REFLECTING PROPERTY BELONGING TO OTHERS”.

On page 45, after line 6, insert:

“(A) IN THIS SECTION “FINANCIAL INSTITUTION” MEANS:

(1) A DEPOSITORY INSTITUTION AS DEFINED IN THE FEDERAL DEPOSIT INSURANCE ACT AT 12 U.S.C. §1813(C);

(2) A FEDERAL CREDIT UNION OR STATE CREDIT UNION, AS DEFINED IN THE FEDERAL CREDIT UNION ACT AT 12 U.S.C. §1752; AND

(3) A BENEFIT ASSOCIATION, INSURANCE COMPANY, SAFE DEPOSIT COMPANY, MONEY-MARKET MUTUAL FUND, OR SIMILAR ENTITY DOING BUSINESS IN THE STATE THAT HOLDS PROPERTY OR MAINTAINS ACCOUNTS REFLECTING PROPERTY BELONGING TO OTHERS.”;

and in lines 7, 14, and 27, strike “(a)”, “(b)”, and “(c)”, respectively, and substitute “(B)”, “(C)”, and “(D)”, respectively.

AMENDMENT NO. 9

On page 14, after line 13, insert:

“(4) THE ADMINISTRATION SHALL PAY THE FINANCIAL INSTITUTION A REASONABLE FEE, NOT TO EXCEED THE ACTUAL COSTS INCURRED BY THE FINANCIAL INSTITUTION TO COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION.”;

and in line 14, strike “(4)” and substitute “(5)”.

AMENDMENT NO. 10

On page 45, in line 15, strike the second “any”; in line 16, in each instance, strike “any”; in the same line, strike the first “ANY”; in the same line, strike “UTILITY, ANY” and substitute “SERVICE COMPANY, ENERGY PROVIDER,”; in line 27, strike “an” and substitute “ANY AGENCY OF THIS STATE, POLITICAL SUBDIVISION OF THIS STATE,”; and in line 28, strike “UTILITY” and substitute “SERVICE COMPANY, ENERGY PROVIDER”.

On page 46, in line 4, strike “an” and substitute “THE STATE AGENCY, POLITICAL SUBDIVISION,”; in lines 4 and 9, in each instance, after “employer” insert “, PUBLIC SERVICE”.

(Over)

COMPANY, ENERGY PROVIDER, FINANCIAL INSTITUTION,”; and in lines 7 and 10, in each instance, strike “UTILITY” and substitute “SERVICE COMPANY, ENERGY PROVIDER”.

AMENDMENT NO. 11

On page 45, in line 15, after “request” insert “IN WRITING”; in line 27, after “Upon” insert “WRITTEN”; and in line 29, after the closing bracket insert “, IF AVAILABLE,”.

On page 46, in line 1, strike “, IF KNOWN”; in line 6, after “request” insert “AND A SHOWING OF CAUSE”; in line 9, strike “obey” and substitute “PROVIDE INFORMATION FROM ITS EMPLOYEE, CUSTOMER, OR MEMBER FILES AS REQUIRED BY”; in line 15, after “compiled” insert “FROM INFORMATION PROVIDED”; in line 18, after the second “a” insert “STATUTORY”; and after line 18, insert:

“(G)(1) NOTWITHSTANDING SUBSECTION (D) OF THIS SECTION, THE ADMINISTRATION MAY ENTER INTO AGREEMENTS WITH ANY PUBLIC SERVICE COMPANY, ENERGY PROVIDER, OR FINANCIAL INSTITUTION TO CONDUCT DATABASE MATCHES FOR INFORMATION DESCRIBED IN SUBSECTION (D)(1) OF THIS SECTION.

(2) THE ADMINISTRATION:

(I) SHALL PROVIDE THE NAMES AND, IF KNOWN, SOCIAL SECURITY NUMBERS OF THE PARENTS OR PUTATIVE FATHERS CONCERNING WHOM THE INFORMATION IS SOUGHT;

(II) SHALL PAY THE PUBLIC SERVICE COMPANY, ENERGY PROVIDER, OR FINANCIAL INSTITUTION A REASONABLE FEE, NOT TO EXCEED THE ACTUAL COSTS INCURRED BY THE PUBLIC SERVICE COMPANY, ENERGY PROVIDER, OR FINANCIAL INSTITUTION TO COMPLY WITH THE REQUIREMENTS OF THIS SUBSECTION AND TO PROVIDE REPORTS UPON REQUEST OF THE ADMINISTRATION;
AND

(III) MAY NOT REQUEST DATABASE MATCHES MORE THAN FOUR TIMES A YEAR.”.

AMENDMENT NO. 12

On page 46, before line 19, insert:

“12-202.

(a) (1) Subject to the provisions of paragraph (2) of this subsection, in any proceeding to establish or modify child support, whether pendente lite or permanent, the court shall use the child support guidelines set forth in this subtitle.

(2) (i) There is a rebuttable presumption that the amount of child support which would result from the application of the child support guidelines set forth in this subtitle is the correct amount of child support to be awarded.

(ii) The presumption may be rebutted by evidence that the application of the guidelines would be unjust or inappropriate in a particular case.

(iii) In determining whether the application of the guidelines would be unjust or inappropriate in a particular case, the court may consider:

1. the terms of any existing separation or property settlement agreement or court order, including any provisions for payment of mortgages or marital debts, payment of college education expenses, the terms of any use and possession order or right to occupy to the family home under an agreement, any direct payments made for the benefit of the children required by agreement or order, or any other financial considerations set out in an existing separation or property settlement agreement or court order; and

2. the presence in the household of either parent of other children to whom that parent owes a duty of support and the expenses for whom that parent is directly contributing.

(iv) 1. If the court determines that the application of the guidelines would be unjust or inappropriate in a particular case, the court shall make a written finding or specific finding

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on the record stating the reasons for departing from the guidelines.

2. The court's finding shall state:

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

B. how the order varies from the guidelines;

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

D. 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) (1) Subject to the provisions of paragraph (2) of this subsection, [the adoption of the guidelines set forth in this subtitle may be grounds for requesting a modification of a child support award based on a material change in circumstances.

(2) The adoption of] the guidelines set forth in this subtitle may [not] be grounds for requesting a modification of a child support award [based on a material change in circumstances unless] IF the use of the guidelines would result in a change in the award of 25% or more.

(2) THIS SUBSECTION MAY NOT BE CONSTRUED TO PROHIBIT A COURT FROM MODIFYING A CHILD SUPPORT AWARD UNDER § 12-104 OF THIS TITLE UPON A SHOWING OF A MATERIAL CHANGE OF CIRCUMSTANCES.

(c) On or before January 1, 1993, and at least every 4 years after that date, the Child Support Enforcement Administration of the Department of Human Resources shall:

(1) review the guidelines set forth in this subtitle to ensure that the application of the guidelines results in the determination of appropriate child support award amounts; and

(2) report its findings and recommendations to the General Assembly, subject to § 2-1312 of the State Government Article.”.

AMENDMENT NO. 13

On page 14, after line 15, insert:

“(E) A FINANCIAL INSTITUTION THAT COMPLIES WITH A REQUEST FROM THE ADMINISTRATION MADE UNDER THIS SECTION IS NOT LIABLE UNDER STATE LAW TO ANY PERSON FOR ANY:

(1) DISCLOSURE OF INFORMATION TO THE ADMINISTRATION UNDER THIS SECTION; OR

(2) OTHER ACTION TAKEN IN GOOD FAITH TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION.”.

On page 46, strike in their entirety lines 12 through 14, inclusive, and substitute:

“(E) AN EMPLOYER, PUBLIC SERVICE COMPANY, ENERGY PROVIDER, FINANCIAL INSTITUTION, OR LABOR UNION THAT COMPLIES WITH A REQUEST FROM THE ADMINISTRATION MADE UNDER THIS SECTION IS NOT LIABLE UNDER STATE LAW TO ANY PERSON FOR ANY:

(1) DISCLOSURE OF INFORMATION TO THE ADMINISTRATION UNDER THIS SECTION; OR

(2) OTHER ACTION TAKEN IN GOOD FAITH TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION.”;

and in line 15, strike “(e)” and substitute “(F)”.

AMENDMENT NO.14

On page 48, after line 25, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as

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follows:

Article - Family Law

10-108.

(a) The Administration shall:

(1) coordinate a statewide program for support enforcement;

(2) maintain a central registry of records on absent parents as required under § 12-105 of this article;

(3) locate absent parents;

(4) determine the ability of an absent parent to pay child support;

(5) accept assignment of right, title, or interest in child support made under Article 88A, § 50(b)(2) of the Code;

(6) in any case in which an assignment is made under Article 88A, § 50(b)(2) of the Code, prosecute and maintain any legal or equitable action available to establish each absent parent's obligation to pay child support;

(7) cooperate with other states in establishing and enforcing child support obligations;

(8) collect and disburse support payments THROUGH THE STATE DISBURSEMENT UNIT ESTABLISHED UNDER § 10-108.5 OF THIS SUBTITLE; and

(9) use established legal processes to enforce court orders to pay support.

(b) Except in a county that has a local support enforcement office, the Administration is the agency that is responsible for support enforcement in all cases where a court orders an obligor to make support payments to a public agency:

(1) as the payee; or

(2) as collection agent for the payee.

10-108.5.

THE ADMINISTRATION SHALL ESTABLISH A STATE DISBURSEMENT UNIT FOR COLLECTION AND DISBURSEMENT OF SUPPORT PAYMENTS IN ANY CASE IN WHICH:

(1) AN ASSIGNMENT IS MADE UNDER ARTICLE 88, § 50(B)(2) OF THE CODE;

(2) AN OBLIGEE FILES AN APPLICATION AND PAYS A FEE FOR CHILD SUPPORT SERVICES AS REQUIRED BY THE ADMINISTRATION; OR

(3) AN EMPLOYER IS REQUIRED TO SEND PAYMENTS TO A SUPPORT ENFORCEMENT AGENCY.

SECTION 3. AND BE IT FURTHER ENACTED, That the Executive Director of the Child Support Enforcement Administration shall report to the General Assembly on or before December 1, 1997, in accordance with § 2-1312 of the State Government Article, on the implementation of Section 2 of this Act.”;

in lines 26, 29, and 32, strike “2.”, “3.”, and “4.”, respectively, and substitute “4.”, “5.”, and “6.”, respectively; in line 32, after “That” insert “, except as provided in Section 7 of this Act,”; and after line 33, insert:

“SECTION 7. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect October 1, 1998.”.