

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 1163 (Delegate Montague. *et al.*)

Judiciary

Family Law - Child and Spousal Support - Earnings Withholding

This bill alters provisions of law relating to earnings withholding orders against support obligors.

Fiscal Summary

State Effect: The Child Support Enforcement Administration (CSEA) and the Office of Administrative Hearings could handle the bill's changes with existing resources. Potential minimal increase in general fund revenues due to the bill's penalty provision. Potential efficiency savings for the CSEA.

Local Effect: Potential efficiency savings for circuit courts.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Earnings Withholding Notice

The bill authorizes the CSEA to serve an earnings withholding notice on an employer of an obligor without the need for modification of a support order or further action of a tribunal if:

- the tribunal has issued a support order and the CSEA is providing child support services under Title IV, Part D of the Social Security Act; or

- the obligor requests the service of an earnings withholding notice.

“Earnings withholding notice” is defined as a notice in a format prescribed by federal law issued by the CSEA to an employer requiring the employer to deduct support payments from an obligor’s earnings.

“Earnings withholding order” is defined as an order in a format prescribed by federal law issued by a tribunal to an employer requiring the employer to deduct support payments from an obligor’s earnings.

“Tribunal” is defined as a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Amount of Earnings Withholding

The bill provides that, when arrearages are part of an earnings withholding order or earnings withholding notice, the amount of arrearage withheld shall be determined by the tribunal or the CSEA. The amount of arrearage apportioned to each payment may not exceed the limits of the Federal Consumer Credit Protection Act (FCCPA).

Multiple Orders or Notices

The bill provides that if multiple earnings withholding orders or notices exist against a single obligor, the CSEA must allocate amounts available for withholding, giving priority to current support, up to limits imposed by the FCCPA.

Transfer of Monies Withheld by Employer

The bill requires that payments under an earnings withholding order or notice be made through the State Disbursement Unit.

Contest by Obligor

The bill eliminates the ability of an obligor, upon receipt of an earnings withholding notice, to contest service of an earnings withholding order at a court hearing and the ability of an obligor to contest whether an arrearage existed. The CSEA must notify an obligor of the obligor’s right to contest the accuracy of information contained in an earnings withholding notice. If the obligor contests an issue, the CSEA must conduct an investigation. An obligor may appeal the decision of the CSEA to the Office of Administrative Hearings (OAH).

Termination of Earnings Withholding

The bill eliminates the authority of the court to terminate an earnings withholding if, because of the failure of the recipient to give notice of a change of address, the employer or the CSEA has been unable to deliver the support payments for a two-month period. The bill further eliminates the authority of the court to terminate an earnings withholding if, within 60 days of service of the order, the court finds that the arrearage that gave rise to the withholding order was the result of a bona fide medical emergency involving hospitalization of the obligor or the death of the obligor's parent, spouse, child, or stepchild.

The bill requires the CSEA to notify an employer to terminate a withholding without the necessity of a further order when the support obligation is fulfilled and no arrearage exists.

Criminal Sanctions Against Employer

The bill provides that an employer who uses child support withholding as a basis for reprisal against, dismissal of, or refusal to hire or promote an obligor is guilty of a misdemeanor and subject to a maximum fine of \$1,500.

Background: The CSEA indicates that the federal Personal Responsibility and Work Reconciliation Act of 1996 requires state support enforcement agencies to perform certain functions without judicial involvement in an effort to streamline the child support process. Those functions specifically include the ability to notify employers of an income withholding on a standard form and the ability to impose additional payments toward an arrearage.

Current Law:

The CSEA may serve an earnings withholding order on an employer of an obligor if:

- a court has passed an immediate and continuing withholding order on all earnings of the obligor, the CSEA is providing child support services under Title IV, Part D of the Social Security Act, and an arrears of support payments has accrued under a support order; or
- an obligor requests the service of an earnings withholding order.

The amount of arrears apportioned to each payment under an earnings withholding order shall be at least 10%, but not more than 25%, of the current support payment.

An employer may send withheld money to the CSEA or directly to the obligee or the obligee's bank account.

A motion by an obligor for a stay of a withholding order prompts an adjudication hearing on

issues concerning: (1) whether an arrearage exists; (2) the arrearage amount; (3) the identity of the obligor; and (4) whether the amount of the withholding exceeds the limits of the FCCPA.

State Fiscal Effect: General fund revenues could increase minimally under the bill's monetary penalty provision.

Based on information from other states, it is estimated that fewer than 50 CSEA decisions would be appealed to OAH annually pursuant to the bill. Therefore, it is expected that OAH could handle any additional hearings resulting from the bill using existing budgeted resources. It is also expected that CSEA could handle the bill's changes using existing budgeted resources.

The earnings withholding notice procedure created by the bill could result in efficiency savings for the CSEA.

Local Fiscal Effect: The earnings withholding notice procedure created by the bill could result in efficiency savings for circuit courts.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management, Office of Administrative Hearings, Department of Human Resources, Department of Legislative Services

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