
By: **Delegates Montague, Menes, Cole, Petzold, and Gladden**
Introduced and read first time: February 9, 2001
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Family Law - Child and Spousal Support - Earnings Withholding**

3 FOR the purpose of authorizing the Child Support Enforcement Administration to
4 serve an earnings withholding notice on an employer of an obligor under certain
5 circumstances; altering provisions relating to the amount of earnings
6 withholding under an earnings withholding order or earnings withholding
7 notice; altering provisions relating to the right of an obligor to contest an
8 earnings withholding notice; establishing a certain criminal offense and
9 imposing a certain penalty; altering the circumstances under which a court may
10 terminate earnings withholding; requiring the Administration to notify an
11 employer to terminate earnings withholding under certain circumstances;
12 making certain conforming changes; defining certain terms; and generally
13 relating to support enforcement and earnings withholding.

14 BY renumbering

15 Article - Family Law
16 Section 10-124, 10-128, 10-129, 10-130, 10-133, 10-135, and 10-136,
17 respectively
18 to be Section 10-126, 10-130, 10-131, 10-132, 10-135, 10-137, and 10-138,
19 respectively
20 Annotated Code of Maryland
21 (1999 Replacement Volume and 2000 Supplement)

22 BY repealing and reenacting, with amendments,

23 Article - Family Law
24 Section 10-120, 10-121, 10-122, 10-122.1, 10-123, 10-125, 10-126, 10-127,
25 10-131, 10-132, and 10-134
26 Annotated Code of Maryland
27 (1999 Replacement Volume and 2000 Supplement)

28 BY adding to

29 Article - Family Law
30 Section 10-120

1 Annotated Code of Maryland
2 (1999 Replacement Volume and 2000 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article - Family Law
5 Section 10-301(x)
6 Annotated Code of Maryland
7 (1999 Replacement Volume and 2000 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That Section(s) 10-124, 10-128, 10-129, 10-130, 10-133, 10-135, and
10 10-136, respectively, of Article - Family Law of the Annotated Code of Maryland be
11 renumbered to be Section(s) 10-126, 10-130, 10-131, 10-132, 10-135, 10-137, and
12 10-138, respectively.

13 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
14 read as follows:

15 **Article - Family Law**

16 10-120.

17 (A) IN THIS PART III OF THIS SUBTITLE THE FOLLOWING WORDS HAVE THE
18 MEANINGS INDICATED.

19 (B) "EARNINGS WITHHOLDING NOTICE" MEANS A NOTICE IN A FORMAT
20 PRESCRIBED BY FEDERAL LAW ISSUED BY THE ADMINISTRATION TO AN EMPLOYER
21 REQUIRING THE EMPLOYER TO DEDUCT SUPPORT PAYMENTS FROM THE EARNINGS
22 OF AN OBLIGOR.

23 (C) "EARNINGS WITHHOLDING ORDER" MEANS AN ORDER IN A FORMAT
24 PRESCRIBED BY FEDERAL LAW ISSUED BY A TRIBUNAL TO AN EMPLOYER REQUIRING
25 THE EMPLOYER TO DEDUCT SUPPORT PAYMENTS FROM THE EARNINGS OF AN
26 OBLIGOR.

27 (D) "SUPPORT" INCLUDES:

28 (1) CHILD SUPPORT;

29 (2) SPOUSAL SUPPORT;

30 (3) NONDIFFERENTIATED CHILD AND SPOUSAL SUPPORT; AND

31 (4) ANY MEDICAL SUPPORT ORDERED BY THE COURT, INCLUDING
32 CONVERTED FUNDS AS DEFINED IN § 15-122.2 OF THE HEALTH - GENERAL ARTICLE.

33 (E) "TRIBUNAL" HAS THE MEANING STATED IN § 10-301(X) OF THIS TITLE.

1 [10-120.] 10-121.

2 (a) Any order under this Part III of this subtitle that is passed on or after July
3 1, 1985 shall constitute an immediate and continuing withholding order on all
4 earnings of the obligor that are due on or after the date of the support order.

5 (b) (1) Any order under this Part III of this subtitle that is passed before
6 July 1, 1985 shall become an immediate and continuing withholding order on all
7 earnings of the obligor that are due on or after the date of the withholding order on
8 the filing by the recipient or support enforcement agency of:

9 (i) a motion for a withholding order on the earnings of the obligor;
10 and

11 (ii) a current support order.

12 (2) Notice of the filing of the motion and a statement that the support
13 order constitutes an earnings withholding order subject to the conditions of this Part
14 III of this subtitle shall be sent to the obligor by certified mail, return receipt
15 requested and first class mail, at the last known home address or, if the home address
16 is unknown, the place of employment of the obligor.

17 [(c) For purposes of this Part III of this subtitle, support shall include:

18 (1) child support;

19 (2) spousal support;

20 (3) nondifferentiated child and spousal support; and

21 (4) any medical support ordered by the court, including converted funds
22 as defined in § 15-122.2 of the Health - General Article.]

23 [(d)] (C) Any support order or modification of support order not subject to
24 immediate withholding under [§ 10-122] § 10-123 of this subtitle, that is passed on or
25 after July 1, 1985, and any notice and statement issued under subsection (b)(2) of this
26 section shall include a statement that:

27 (1) if the obligor accumulates support payments arrears amounting to
28 more than 30 days of support, the obligor shall be subject to earnings withholding;

29 (2) the obligor is required to notify the court within 10 days of any
30 change of address or employment so long as the support order is in effect; and

31 (3) failure to comply with item (2) of this subsection will subject the
32 obligor to a penalty not to exceed \$250 and may result in the obligor's not receiving
33 notice of proceedings for earnings withholding.

34 [10-121.] 10-122.

35 (a) The amount of the earnings withholding shall:

1 (1) be enough to pay the support and any arrearage included in the
2 payments required by the support order; and

3 (2) include any arrearage accrued since the support order.

4 (b) (1) (I) When arrearages under subsection (a)(2) of this section are part
5 of an earnings withholding order OR EARNINGS WITHHOLDING NOTICE, [the court
6 shall order] the total arrearage withheld SHALL BE in [1] ONE lump-sum payment
7 or apportioned over a period of time.

8 (II) THE AMOUNT OF THE ARREARAGE WITHHELD UNDER
9 SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE DETERMINED BY THE TRIBUNAL
10 OR THE ADMINISTRATION.

11 (2) The amount of arrears under subsection (a)(2) of this section
12 apportioned to each payment [shall be at least 10% but not more than 25% of the
13 current support payment] COMBINED WITH THE CURRENT SUPPORT OBLIGATION
14 MAY NOT EXCEED THE LIMITS OF THE FEDERAL CONSUMER CREDIT PROTECTION
15 ACT.

16 [10-122.] 10-123.

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

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

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

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

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

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

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

34 (i) through a support enforcement agency; or

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

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

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

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

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

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

12 [10-122.1.] 10-124.

13 (a) Except as otherwise provided in this [section and notwithstanding any
14 other provision of this] Part III, the Administration may serve [a] AN EARNINGS
15 withholding [order] NOTICE on an employer of an obligor [when] WITHOUT THE
16 NEED FOR ANY MODIFICATION OF THE SUPPORT ORDER OR ANY FURTHER ACTION
17 BY A TRIBUNAL IF:

18 (1) (i) [a court has passed an immediate and continuing withholding
19 order on all earnings of the obligor;] A TRIBUNAL HAS ISSUED A SUPPORT ORDER;
20 AND

21 (ii) the Administration is providing child support services under
22 Title IV, Part D, of the Social Security Act; [and

23 (iii) an arrears of support payments has accrued under a support
24 order;] or

25 (2) an obligor requests the service of an earnings withholding [order]
26 NOTICE.

27 (b) The Administration may serve an employer with an earnings withholding
28 [order] NOTICE using an electronic format if the employer has entered into an
29 agreement with the Administration to accept service of AN earnings withholding
30 [orders] NOTICE in this manner.

31 (c) When the Administration serves an employer with an earnings
32 withholding [order] NOTICE under this section, the Administration shall send to the
33 obligor, by certified mail, return receipt requested, and first-class mail, at the
34 obligor's last known home address or, if the home address is unknown, the place of
35 employment last reported to the court:

36 (1) a copy of the earnings withholding [order] NOTICE;

1 (2) a statement of the procedures under [§ 10-132] § 10-134 of this
2 subtitle that the obligor must follow to terminate earnings withholding;

3 (3) [the form authorized under § 10-132 of this subtitle;

4 (4)] a statement of the obligor's right to contest [service of an earnings
5 withholding order by moving for a stay of the order] THE ACCURACY OF THE
6 INFORMATION PROVIDED IN THE EARNINGS WITHHOLDING NOTICE BY REQUESTING
7 AN INVESTIGATION no later than 15 days after a copy of the withholding [order]
8 NOTICE is mailed to the obligor under this section; and

9 [(5)] (4) a statement of the amount of arrears apportioned to each
10 payment that is to be included in the amount of earnings withheld under [§ 10-121]
11 § 10-122 of this subtitle.

12 (d) The only issues that may be [adjudicated at a hearing] CONTESTED under
13 subsection [(c)(4)] (C)(3) of this section are:

14 (1) [whether an arrearage existed;

15 (2)] the amount of the WITHHOLDING OR THE AMOUNT OF ANY
16 arrearage;

17 [(3)] (2) the identity of the obligor; [and] OR

18 [(4)] (3) that the amount of the withholding [order] NOTICE exceeds the
19 limits of the federal Consumer Credit Protection Act.

20 (E) (1) IF AN OBLIGOR CONTESTS AN ISSUE UNDER SUBSECTION (D) OF THIS
21 SECTION, THE ADMINISTRATION SHALL:

22 (I) CONDUCT AN INVESTIGATION; AND

23 (II) ON COMPLETION OF THE INVESTIGATION, NOTIFY THE
24 OBLIGOR OF THE RESULTS OF THE INVESTIGATION AND THE OBLIGOR'S RIGHT TO
25 APPEAL THE DECISION OF THE ADMINISTRATION TO THE OFFICE OF
26 ADMINISTRATIVE HEARINGS.

27 (2) AN APPEAL UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL
28 BE CONDUCTED IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE
29 GOVERNMENT ARTICLE.

30 [10-123.] 10-125.

31 Except as provided for in [§ 10-122] § 10-123 of this subtitle, the court may not
32 cause a copy of the earnings withholding order to be served on any employer of the
33 obligor until the court receives a request for service of the earnings withholding order
34 under [§ 10-124] § 10-126 of this subtitle and the requirements of [§§ 10-125 and
35 10-131] §§ 10-127 AND 10-133 of this subtitle have been met.

1 [10-125.] 10-127.

2 (a) When the court receives a request for service of the earnings withholding
3 order under [§ 10-124] § 10-126 of this subtitle, the court shall send to the obligor, by
4 certified mail, return receipt requested and first class mail, at the home address or, if
5 the home address is unknown, the place of employment last reported to the court:

6 (1) a copy of the earnings withholding order;

7 (2) a copy of the request for service of the earnings withholding order;

8 (3) a statement of the procedures under [§ 10-131] § 10-133 of this
9 subtitle that the obligor must follow to contest the earnings withholding;

10 (4) the form permitted under [§ 10-131(b)(3)] § 10-133(B)(3) of this
11 subtitle;

12 (5) a statement of the issues that may be adjudicated under [§ 10-131]
13 § 10-133 of this subtitle; and

14 (6) notice that:

15 (i) the order will be served on the employer and will include
16 arrears as alleged in the request for service of the earnings withholding order unless
17 the obligor moves for a stay of service within 15 days of mailing the notice under this
18 section; and

19 (ii) the arrears accrued since the issuance of the support order will
20 be apportioned according to the requirements of [§ 10-121] § 10-122 of this subtitle.

21 (b) If the obligor fails to move for a stay under [§ 10-131] § 10-133 of this
22 subtitle, the court shall immediately cause a copy of the earnings withholding order to
23 be served on the employer of the obligor.

24 [10-126.] 10-128.

25 (a) [The] AN earnings withholding order OR AN EARNINGS WITHHOLDING
26 NOTICE sent to the obligor's employer shall:

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

29 (2) include only the following information:

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

32 (ii) that subject to further orders of the [court] TRIBUNAL, the
33 employer is required to withhold the stated amount on a regular and continuing basis
34 commencing on the beginning of the next pay period after receipt of the EARNINGS
35 WITHHOLDING order OR THE EARNINGS WITHHOLDING NOTICE;

1 (iii) that the employer may deduct and retain from the employee's
2 earnings an additional \$2 for each deduction made under the EARNINGS
3 WITHHOLDING order OR EARNINGS WITHHOLDING NOTICE;

4 (iv) that the net amount withheld is to be sent promptly to the
5 [support enforcement agency or to the recipient as specified in the order] STATE
6 DISBURSEMENT UNIT; and

7 (v) any other information that the employer needs to comply with
8 the earnings withholding order OR EARNINGS WITHHOLDING NOTICE.

9 (b) An earnings withholding order OR EARNINGS WITHHOLDING NOTICE is
10 binding on each present and future employer of the obligor on whom a copy of the
11 EARNINGS WITHHOLDING order OR EARNINGS WITHHOLDING NOTICE is served.

12 (c) Subject to federal law, an earnings withholding order OR EARNINGS
13 WITHHOLDING NOTICE under this Part III of this subtitle has priority over any other
14 lien or legal process.

15 (d) The copy of the earnings withholding order OR EARNINGS WITHHOLDING
16 NOTICE served on the employer of the obligor shall contain a statement that upon
17 willful violation of the EARNINGS WITHHOLDING order OR EARNINGS WITHHOLDING
18 NOTICE the employer shall be subject to civil penalties.

19 [10-127.] 10-129.

20 (a) On receipt of a copy of an earnings withholding order OR EARNINGS
21 WITHHOLDING NOTICE an employer shall, beginning with the next pay period after
22 receipt of the EARNINGS WITHHOLDING order OR EARNINGS WITHHOLDING NOTICE:

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

25 (2) send the deducted net amount directly to the support enforcement
26 agency or the recipient, as specified in the EARNINGS WITHHOLDING order OR
27 EARNINGS WITHHOLDING NOTICE, within 7 days not including Saturday, Sunday, or
28 a legal holiday after the day on which the earnings are paid to the obligor.

29 (b) An employer may deduct and retain from the obligor's wages an additional
30 \$2 for each deduction made under the EARNINGS WITHHOLDING order OR EARNINGS
31 WITHHOLDING NOTICE.

32 (c) (1) An employer may not use the withholding as a basis for:

33 [(1)] (I) reprisal against the obligor;

34 [(2)] (II) dismissal of the obligor from employment; or

35 [(3)] (III) refusal to hire or to promote the obligor.

1 (2) AN EMPLOYER WHO VIOLATES ANY OF THE PROVISIONS OF
2 PARAGRAPH (1) OF THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON
3 CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,500.

4 (d) (1) Subject to the provisions of [§ 10-129] § 10-131 of this subtitle:

5 (i) the recipient or the support enforcement agency may bring a
6 civil action against an employer who willfully violates subsection (a) of this section;
7 and

8 (ii) an employer is liable for damages under this subsection in an
9 amount equal to the amount of any withholding that the employer failed to deduct
10 from the obligor's earnings or failed to send within the time required under
11 subsection (a) of this section.

12 (2) The employer's liability under this subsection shall be in addition to
13 any amounts paid directly or indirectly by the obligor.

14 [10-131.] 10-133.

15 (a) Except as provided in [§ 10-122 or § 10-122.1] § 10-123 OR § 10-124 of this
16 subtitle, an obligor may contest the issuance of an earnings withholding order by
17 moving for a stay of the order no later than 15 days after a copy of the withholding
18 order is mailed to the obligor under [§ 10-125] § 10-127 of this subtitle.

19 (b) A motion for a stay of the withholding order:

20 (1) shall be under oath;

21 (2) shall state the grounds for contesting the earnings withholding,
22 including dates and amount of payments in dispute; and

23 (3) may be on a form that shall be prepared by the court.

24 (c) Any person who willfully makes a false representation of facts on a motion
25 for stay of the withholding order under this section shall be subject to the penalties
26 for perjury.

27 (d) Upon receipt of a motion for a stay of the withholding order under
28 subsection (a) of this section, the court shall immediately notify the recipient and the
29 support enforcement agency, if applicable, and shall schedule a hearing within 15
30 days.

31 (e) The only issues that may be adjudicated at a hearing scheduled under this
32 section are:

33 (1) whether the alleged arrearage existed;

34 (2) the amount of the arrearage;

35 (3) the identity of the obligor; and

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

3 (f) Payment of arrearage after the date of the motion for service of the
4 withholding order is not a defense against withholding.

5 (g) After adjudication of the issues under subsection (e) of this section, if the
6 court finds that the obligor owed an amount in excess of 30 days' support at the time
7 the request for service of the withholding order was filed, the court shall cause the
8 earnings withholding order to be served on the obligor's employer immediately and
9 shall deny the stay.

10 (h) If the court finds that the amount of the withholding order exceeds the
11 limits of the federal Consumer Credit Protection Act, the court shall alter the amount
12 of the earnings withholding to the maximum allowed under the federal Consumer
13 Credit Protection Act.

14 (i) In any event, the court shall rule on the request for service of the earnings
15 withholding order within 45 days of the mailing of the notice to the obligor.

16 [10-132.] 10-134.

17 (A) On motion of the obligor[, the] OR THE recipient[, or the support
18 enforcement agency,] that may be filed on a form which shall be prepared by the
19 court, the court shall terminate the withholding if:

20 (1) the support obligation is terminated and the total arrearages are
21 paid;

22 (2) [because of the failure of the recipient to give notice of a change of
23 address as required by § 10-129 of this subtitle, the employer or the support
24 enforcement agency has been unable to deliver the support payments for a 2-month
25 period;

26 (3)] all of the parties join in a motion for termination of the withholding;
27 or

28 [(4)] (3) within 60 days of the withholding order being served, the court
29 finds[:

30 (i)] no history of child support arrearages[; and

31 (ii) the arrearage which gave rise to the withholding order was the
32 result of a bona fide medical emergency involving hospitalization of the obligor or the
33 death of the obligor's parents, spouse, children, or stepchildren].

34 (B) THE ADMINISTRATION SHALL NOTIFY THE EMPLOYER TO TERMINATE THE
35 WITHHOLDING WITHOUT THE NECESSITY OF A FURTHER ORDER WHEN:

36 (1) THE SUPPORT OBLIGATION IS FULFILLED; AND

1 (2) NO ARREARAGE EXISTS.

2 [10-134.] 10-136.

3 (a) Support orders issued out of State shall be enforced in the same manner
4 under this Part III of this subtitle as support orders issued in this State.

5 (b) A recipient of an out-of-state support order may file a request for service
6 of an earnings withholding order under [§ 10-124] § 10-126 of this subtitle by
7 submitting the information required under [§ 10-124] § 10-126 of this subtitle, and a
8 certified support order or a support order registered in this State.

9 (c) (1) A recipient of an out-of-state support order may request that the
10 support enforcement agency file with the court a request for service of an earnings
11 withholding order under [§ 10-124] § 10-126 of this subtitle by submitting a request
12 for service, a certified support order, and a statement of arrears under oath.

13 (2) A request under this subsection may be submitted by the recipient or
14 a support enforcement agency.

15 10-301.

16 (x) "Tribunal" means a court, administrative agency, or quasi-judicial entity
17 authorized to establish, enforce, or modify support orders or to determine parentage.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2001.