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

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 19, 2001

CHAPTER _____

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; establishing certain procedures for earnings withholding if there is more
8 than one earnings withholding order or earnings withholding notice against a
9 single obligor; requiring a court to order that payments under an earnings
10 withholding order be made through the State disbursement unit under certain
11 circumstances; altering provisions relating to the right of an obligor to contest
12 an earnings withholding notice; requiring an employer to send the amount
13 withheld under an earnings withholding order or earnings withholding notice to
14 the State disbursement unit under certain circumstances; ~~establishing a certain~~
15 ~~criminal offense and imposing a certain penalty~~; altering the circumstances
16 under which a court may terminate earnings withholding; requiring the
17 Administration to notify an employer to terminate earnings withholding under
18 certain circumstances; making certain conforming changes; defining certain
19 terms; and generally relating to support enforcement and earnings withholding.

20 BY renumbering

21 Article - Family Law
22 Section 10-124, 10-128, 10-129, 10-130, 10-133, 10-135, and 10-136,
23 respectively
24 to be Section 10-126, 10-130, 10-131, 10-132, 10-135, 10-137, and 10-138,
25 respectively
26 Annotated Code of Maryland

1 (1999 Replacement Volume and 2000 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - Family Law

4 Section 10-120, 10-121, 10-122, 10-122.1, 10-123, 10-125, 10-126, 10-127,

5 10-131, 10-132, and 10-134

6 Annotated Code of Maryland

7 (1999 Replacement Volume and 2000 Supplement)

8 BY adding to

9 Article - Family Law

10 Section 10-120

11 Annotated Code of Maryland

12 (1999 Replacement Volume and 2000 Supplement)

13 BY repealing and reenacting, without amendments,

14 Article - Family Law

15 Section 10-301(x)

16 Annotated Code of Maryland

17 (1999 Replacement Volume and 2000 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
19 MARYLAND, That Section(s) 10-124, 10-128, 10-129, 10-130, 10-133, 10-135, and
20 10-136, respectively, of Article - Family Law of the Annotated Code of Maryland be
21 renumbered to be Section(s) 10-126, 10-130, 10-131, 10-132, 10-135, 10-137, and
22 10-138, respectively.

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

25 **Article - Family Law**

26 10-120.

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

29 (B) "EARNINGS WITHHOLDING NOTICE" MEANS A NOTICE IN A FORMAT
30 PRESCRIBED BY FEDERAL LAW ISSUED BY THE ADMINISTRATION TO AN EMPLOYER
31 REQUIRING THE EMPLOYER TO DEDUCT SUPPORT PAYMENTS FROM THE EARNINGS
32 OF AN OBLIGOR.

33 (C) "EARNINGS WITHHOLDING ORDER" MEANS AN ORDER IN A FORMAT
34 PRESCRIBED BY FEDERAL LAW ISSUED BY A TRIBUNAL TO AN EMPLOYER REQUIRING
35 THE EMPLOYER TO DEDUCT SUPPORT PAYMENTS FROM THE EARNINGS OF AN
36 OBLIGOR.

1 (D) "SUPPORT" INCLUDES:

2 (1) CHILD SUPPORT;

3 (2) SPOUSAL SUPPORT;

4 (3) NONDIFFERENTIATED CHILD AND SPOUSAL SUPPORT; AND

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

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

8 [10-120.] 10-121.

9 (a) Any order under this Part III of this subtitle that is passed on or after July
10 1, 1985 shall constitute an immediate and continuing withholding order on all
11 earnings of the obligor that are due on or after the date of the support order.

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

16 (i) a motion for a withholding order on the earnings of the obligor;
17 and

18 (ii) a current support order.

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

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

25 (1) child support;

26 (2) spousal support;

27 (3) nondifferentiated child and spousal support; and

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

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

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

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

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

8 [10-121.] 10-122.

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

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

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

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

17 (II) THE AMOUNT OF THE ARREARAGE WITHHELD UNDER
18 SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE DETERMINED BY THE TRIBUNAL
19 OR, IN A CASE IN WHICH THE ADMINISTRATION IS PROVIDING SUPPORT SERVICES,
20 BY THE ADMINISTRATION.

21 (2) The amount of arrears under subsection (a)(2) of this section
22 apportioned to each payment {shall be at least 10% \$1 but not more than 25% of the
23 current support payment} ~~COMBINED WITH THE CURRENT SUPPORT OBLIGATION~~
24 ~~MAY NOT EXCEED THE LIMITS OF THE FEDERAL CONSUMER CREDIT PROTECTION~~
25 ~~ACT.~~

26 (C) IF THERE IS MORE THAN ONE EARNINGS WITHHOLDING ORDER OR
27 EARNINGS WITHHOLDING NOTICE AGAINST A SINGLE OBLIGOR, THE
28 ADMINISTRATION SHALL ALLOCATE AMOUNTS AVAILABLE FOR WITHHOLDING,
29 GIVING PRIORITY TO CURRENT SUPPORT, UP TO THE LIMITS IMPOSED BY THE
30 FEDERAL CONSUMER CREDIT PROTECTION ACT.

31 [10-122.] 10-123.

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

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

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

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

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

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

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

13 (i) ~~through a support enforcement agency~~ IN A CASE IN WHICH
14 THE ADMINISTRATION IS PROVIDING SUPPORT SERVICES, THROUGH THE STATE
15 DISBURSEMENT UNIT; or

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

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

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

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

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

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

28 [10-122.1.] 10-124.

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

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

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

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

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

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

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

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

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

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

20 (4)] a statement of the obligor's right to contest [service of an earnings
21 withholding order by moving for a stay of the order] THE ACCURACY OF THE
22 INFORMATION PROVIDED IN THE EARNINGS WITHHOLDING NOTICE BY FILING A
23 MOTION FOR A STAY OF THE EARNINGS WITHHOLDING NOTICE IN CIRCUIT COURT
24 OR REQUESTING AN INVESTIGATION no later than 15 days after a copy of the
25 withholding [order] NOTICE is mailed to the obligor under this section; and

26 [(5)] (4) a statement of the amount of arrears apportioned to each
27 payment that is to be included in the amount of earnings withheld under [§ 10-121]
28 § 10-122 of this subtitle.

29 (d) The only issues that may be {adjudicated at a hearing}OR CONTESTED IN
30 AN INVESTIGATION under subsection [(c)(4)] (C)(3) of this section are:

31 (1) {whether an arrearage existed;

32 (2)} the amount of the WITHHOLDING OR THE AMOUNT OF ANY
33 arrearage;

34 {(3)} (↔) the identity of the obligor; [and] OR

35 {(4)} (↔) that the amount of the withholding [order] NOTICE exceeds the
36 limits of the federal Consumer Credit Protection Act.

1 (E) (1) IF AN OBLIGOR ~~CONTESTS AN ISSUE UNDER SUBSECTION (D) OF THIS~~
2 ~~SECTION REQUESTS AN INVESTIGATION~~, THE ADMINISTRATION SHALL:

3 (I) CONDUCT AN INVESTIGATION WITHIN 15 DAYS AFTER THE
4 OBLIGOR'S REQUEST; AND

5 (II) ON COMPLETION OF THE INVESTIGATION, NOTIFY THE
6 OBLIGOR OF THE RESULTS OF THE INVESTIGATION AND THE OBLIGOR'S RIGHT TO
7 APPEAL THE DECISION OF THE ADMINISTRATION TO THE OFFICE OF
8 ADMINISTRATIVE HEARINGS.

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

12 [10-123.] 10-125.

13 Except as provided for in [§ 10-122] § 10-123 of this subtitle, the court may not
14 cause a copy of the earnings withholding order to be served on any employer of the
15 obligor until the court receives a request for service of the earnings withholding order
16 under [§ 10-124] § 10-126 of this subtitle and the requirements of [§§ 10-125 and
17 10-131] §§ 10-127 AND 10-133 of this subtitle have been met.

18 [10-125.] 10-127.

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

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

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

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

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

29 (5) a statement of the issues that may be adjudicated under [§ 10-131]
30 § 10-133 of this subtitle; and

31 (6) notice that:

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

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

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

6 [10-126.] 10-128.

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

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

11 (2) include only the following information:

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

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

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

21 (iv) that the net amount withheld is to be sent promptly to the
22 ~~support enforcement agency or to~~ STATE DISBURSEMENT UNIT OR the recipient as
23 specified in the order ~~STATE DISBURSEMENT UNIT~~; and

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

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

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

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

1 [10-127.] 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 ~~support enforcement~~
8 ~~agency~~ STATE DISBURSEMENT UNIT or the recipient, as specified in the EARNINGS
9 WITHHOLDING order OR EARNINGS WITHHOLDING NOTICE, within 7 days not
10 including Saturday, Sunday, or a legal holiday after the day on which the earnings are
11 paid to the obligor.

12 (b) An employer may deduct and retain from the obligor's wages an additional
13 \$2 for each deduction made under the EARNINGS WITHHOLDING order OR EARNINGS
14 WITHHOLDING NOTICE.

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

16 ~~{(1)}~~ ~~(1)~~ reprisal against the obligor;

17 ~~{(2)}~~ ~~(2)~~ dismissal of the obligor from employment; or

18 ~~{(3)}~~ ~~(3)~~ refusal to hire or to promote the obligor.

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

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

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

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

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

32 [10-131.] 10-133.

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

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

2 (1) shall be under oath;

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

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

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

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

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

15 (1) whether the alleged arrearage existed;

16 (2) the amount of the arrearage;

17 (3) the identity of the obligor; and

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

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

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

27 (h) If the court finds that the amount of the withholding order exceeds the
28 limits of the federal Consumer Credit Protection Act, the court shall alter the amount
29 of the earnings withholding to the maximum allowed under the federal Consumer
30 Credit Protection Act.

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

1 [10-132.] 10-134.

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

5 (1) the support obligation is terminated and the total arrearages are
6 paid;

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

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

13 [(4)] (3) within 60 days of the withholding order being served, the court
14 finds{:

15 (i)} no history of child support arrearages{; and

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

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

21 (1) THE SUPPORT OBLIGATION IS FULFILLED; AND

22 (2) NO ARREARAGE EXISTS.

23 [10-134.] 10-136.

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

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

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

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

1 10-301.

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

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