

SENATE BILL 21

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D4

2001 Regular Session
1r0231

(PRE-FILED)

By: **Senator Currie**
Requested: September 21, 2000
Introduced and read first time: January 10, 2001
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Private Child Support Collection Agencies - Regulation**

3 FOR the purpose of providing that the Executive Director of the Child Support
4 Enforcement Administration is responsible for the registration and regulation of
5 certain persons who provide child support collection services in the State;
6 establishing certain powers and duties of the Executive Director; requiring the
7 Secretary of Human Resources to adopt certain regulations; requiring a person
8 to register with the Executive Director before providing child support collection
9 services in the State; providing certain exceptions; requiring applicants for
10 registration to meet certain qualifications; establishing certain registration and
11 renewal requirements and procedures; requiring registrants to submit certain
12 changes to the Executive Director within a certain time period; establishing
13 grounds for denial of a registration or disciplinary action against a registrant;
14 authorizing the Executive Director to seek a restraining order or impose a civil
15 penalty under certain circumstances; establishing procedures for filing and
16 disposition of complaints; requiring the Executive Director to provide certain
17 persons with notice and an opportunity to be heard before taking certain
18 actions; limiting the fees that a person who provides child support collection
19 services may charge; making a violation of this Act a misdemeanor subject to
20 certain penalties; defining certain terms; and generally relating to the
21 regulation of child support collection services.

22 BY adding to
23 Article - Family Law
24 Section 10-401 through 10-415, inclusive, to be under the new subtitle "Subtitle
25 4. Private Child Support Collection Agencies"
26 Annotated Code of Maryland
27 (1999 Replacement Volume and 2000 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
29 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Family Law

2

SUBTITLE 4. PRIVATE CHILD SUPPORT COLLECTION AGENCIES.

3 10-401.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
5 INDICATED.

6 (B) "EXECUTIVE DIRECTOR" MEANS THE EXECUTIVE DIRECTOR OF THE
7 ADMINISTRATION.

8 (C) "PROVIDE CHILD SUPPORT COLLECTION SERVICES" INCLUDES:

- 9 (1) LOCATING ABSENT PARENTS;
- 10 (2) ESTABLISHING CHILD SUPPORT ORDERS;
- 11 (3) COLLECTING AND DISBURSING CHILD SUPPORT PAYMENTS; AND
- 12 (4) ENFORCING CHILD SUPPORT OBLIGATIONS.

13 (D) "REGISTRANT" MEANS A PERSON REGISTERED WITH THE EXECUTIVE
14 DIRECTOR TO PROVIDE CHILD SUPPORT SERVICES.

15 10-402.

16 THIS SUBTITLE DOES NOT APPLY TO:

- 17 (1) AN EMPLOYEE OF:
 - 18 (I) THE ADMINISTRATION;
 - 19 (II) A LOCAL SUPPORT ENFORCEMENT OFFICE;
 - 20 (III) A PRIVATE CONTRACTOR PARTICIPATING IN THE CHILD
21 SUPPORT ENFORCEMENT PRIVATIZATION PILOT PROGRAM UNDER § 10-119.1 OF THIS
22 TITLE; OR
 - 23 (IV) A DEMONSTRATION SITE UNDER § 10-119.2 OF THIS TITLE; OR
- 24 (2) AN INDIVIDUAL ADMITTED TO THE BAR OF THE COURT OF APPEALS
25 OF MARYLAND.

26 10-403.

27 IN ADDITION TO ANY POWERS AND DUTIES SET FORTH ELSEWHERE, THE
28 SECRETARY OF HUMAN RESOURCES SHALL ADOPT:

- 29 (1) REGULATIONS TO CARRY OUT THIS TITLE; AND

1 (2) A CODE OF ETHICS FOR PROVIDING CHILD SUPPORT COLLECTION
2 SERVICES.

3 10-404.

4 (A) SUBJECT TO THE PROVISIONS OF THIS SUBTITLE, THE EXECUTIVE
5 DIRECTOR IS RESPONSIBLE FOR THE REGISTRATION AND REGULATION OF THOSE
6 PERSONS WHO PROVIDE CHILD SUPPORT COLLECTION SERVICES IN THE STATE.

7 (B) UPON RECEIPT OF A WRITTEN COMPLAINT, OR AT THE DISCRETION OF
8 THE EXECUTIVE DIRECTOR, THE EXECUTIVE DIRECTOR MAY CONDUCT AN
9 INVESTIGATION AND AN INSPECTION OF THE RECORDS AND SITE OF A REGISTRANT.

10 (C) TO ENFORCE THIS SUBTITLE, THE EXECUTIVE DIRECTOR MAY:

11 (1) ADMINISTER OATHS;

12 (2) EXAMINE WITNESSES; AND

13 (3) RECEIVE EVIDENCE.

14 (D) (1) THE EXECUTIVE DIRECTOR MAY ISSUE A SUBPOENA FOR THE
15 ATTENDANCE OF A WITNESS TO TESTIFY OR FOR THE PRODUCTION OF EVIDENCE IN
16 CONNECTION WITH ANY INVESTIGATION OR HEARING CONDUCTED IN ACCORDANCE
17 WITH THIS SUBTITLE.

18 (2) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA ISSUED UNDER
19 THIS SUBSECTION, ON PETITION OF THE EXECUTIVE DIRECTOR, A CIRCUIT COURT
20 MAY COMPEL COMPLIANCE WITH THE SUBPOENA.

21 (E) (1) THE EXECUTIVE DIRECTOR MAY SUE IN THE NAME OF THE STATE TO
22 ENFORCE ANY PROVISION OF THIS SUBTITLE BY INJUNCTION.

23 (2) IN SEEKING AN INJUNCTION UNDER THIS SUBSECTION, THE
24 EXECUTIVE DIRECTOR IS NOT REQUIRED TO:

25 (I) POST BOND; OR

26 (II) ALLEGE OR PROVE EITHER THAT:

27 1. AN ADEQUATE REMEDY AT LAW DOES NOT EXIST; OR

28 2. SUBSTANTIAL OR IRREPARABLE DAMAGE WOULD RESULT
29 FROM THE CONTINUED VIOLATION OF THE PROVISION.

30 (3) THE EXECUTIVE DIRECTOR OR STAFF OF THE ADMINISTRATION MAY
31 NOT BE HELD PERSONALLY LIABLE FOR ANY ACTION TAKEN UNDER THIS SUBTITLE
32 IN GOOD FAITH AND WITH REASONABLE GROUNDS.

33 (F) THE EXECUTIVE DIRECTOR MAY ISSUE A CEASE AND DESIST ORDER, IF
34 THE EXECUTIVE DIRECTOR FINDS A VIOLATION OF THIS SUBTITLE.

1 (G) THE EXECUTIVE DIRECTOR MAY REFER TO THE OFFICE OF THE
2 ATTORNEY GENERAL:

3 (1) A VIOLATION OF THIS SUBTITLE FOR ENFORCEMENT; AND

4 (2) AN ALLEGED UNFAIR OR DECEPTIVE TRADE PRACTICE UNDER TITLE
5 13 OF THE COMMERCIAL LAW ARTICLE.

6 (H) THE EXECUTIVE DIRECTOR SHALL MAINTAIN A LIST OF ALL
7 REGISTRANTS.

8 10-405.

9 A PERSON SHALL REGISTER WITH THE EXECUTIVE DIRECTOR BEFORE
10 PROVIDING CHILD SUPPORT COLLECTION SERVICES IN THIS STATE.

11 10-406.

12 (A) IN ORDER TO REGISTER, AN APPLICANT SHALL MEET THE REQUIREMENTS
13 OF THIS SECTION.

14 (B) THE APPLICANT MUST BE AT LEAST 18 YEARS OLD.

15 (C) THE APPLICANT MUST BE OF GOOD CHARACTER AND REPUTATION.

16 10-407.

17 (A) AN APPLICANT SHALL REGISTER BY:

18 (1) SUBMITTING TO THE EXECUTIVE DIRECTOR AN APPLICATION ON
19 THE FORM THAT THE EXECUTIVE DIRECTOR PROVIDES; AND

20 (2) PAYING A NONREFUNDABLE APPLICATION FEE SET BY THE
21 EXECUTIVE DIRECTOR.

22 (B) THE APPLICATION SHALL STATE:

23 (1) THE NAME, DATE OF BIRTH, AND RESIDENTIAL ADDRESS OF THE
24 APPLICANT;

25 (2) THE NAME AND FIXED ADDRESS OF THE APPLICANT'S BUSINESS;

26 (3) WHETHER THE APPLICANT'S BUSINESS IS OWNED OR CONTROLLED
27 BY A PARTNERSHIP, LIMITED LIABILITY COMPANY, OR CORPORATION;

28 (4) THE NAME AND RESIDENTIAL ADDRESS OF EACH EMPLOYEE OF THE
29 APPLICANT'S BUSINESS; AND

30 (5) ANY OTHER REASONABLE INFORMATION THAT THE EXECUTIVE
31 DIRECTOR DETERMINES IS NECESSARY TO CARRY OUT THIS SUBTITLE.

1 10-408.

2 (A) THE EXECUTIVE DIRECTOR SHALL ISSUE A REGISTRATION TO AN
3 APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.

4 (B) A REGISTRATION ISSUED BY THE EXECUTIVE DIRECTOR UNDER THIS
5 SUBTITLE IS NOT TRANSFERABLE.

6 (C) WHILE A REGISTRATION IS IN EFFECT, IT AUTHORIZES THE REGISTRANT
7 TO PROVIDE CHILD SUPPORT COLLECTION SERVICES IN THE STATE.

8 10-409.

9 (A) UNLESS A REGISTRATION IS RENEWED AS PROVIDED IN THIS SECTION,
10 THE REGISTRATION EXPIRES ON THE SECOND ANNIVERSARY OF ITS EFFECTIVE
11 DATE.

12 (B) AT LEAST 90 DAYS BEFORE A REGISTRATION EXPIRES, THE EXECUTIVE
13 DIRECTOR SHALL MAIL TO THE REGISTRANT, AT THE LAST KNOWN ADDRESS OF THE
14 REGISTRANT:

15 (1) A RENEWAL APPLICATION FORM; AND

16 (2) A NOTICE THAT STATES:

17 (I) THE DATE ON WHICH THE CURRENT REGISTRATION EXPIRES;

18 (II) THE DATE BY WHICH THE EXECUTIVE DIRECTOR MUST
19 RECEIVE THE RENEWAL APPLICATION FOR THE RENEWAL TO BE ISSUED AND
20 MAILED BEFORE THE REGISTRATION; AND

21 (III) THE AMOUNT OF THE RENEWAL FEE.

22 (C) BEFORE A REGISTRATION EXPIRES, THE REGISTRANT PERIODICALLY MAY
23 RENEW IT FOR AN ADDITIONAL 2-YEAR TERM, IF THE REGISTRANT:

24 (1) IS OTHERWISE ENTITLED TO BE REGISTERED;

25 (2) MEETS THE QUALIFICATIONS SET FORTH FOR AN ORIGINAL
26 REGISTRATION;

27 (3) PAYS THE RENEWAL FEE SET BY THE EXECUTIVE DIRECTOR; AND

28 (4) SUBMITS TO THE EXECUTIVE DIRECTOR A RENEWAL APPLICATION
29 ON THE FORM THAT THE EXECUTIVE DIRECTOR PROVIDES.

30 (D) THE EXECUTIVE DIRECTOR SHALL RENEW THE REGISTRATION OF EACH
31 REGISTRANT WHO MEETS THE REQUIREMENTS OF THIS SECTION.

1 10-410.

2 WITHIN 14 DAYS AFTER THE EFFECTIVE DATE OF THE CHANGE, A REGISTRANT
3 SHALL SUBMIT TO THE EXECUTIVE DIRECTOR ON THE FORM THAT THE EXECUTIVE
4 DIRECTOR PROVIDES ANY CHANGE IN THE INFORMATION REQUIRED TO BE STATED
5 ON AN ORIGINAL OR RENEWAL APPLICATION FORM.

6 10-411.

7 (A) SUBJECT TO THE HEARING PROVISIONS OF § 10-413 OF THIS SUBTITLE,
8 THE EXECUTIVE DIRECTOR MAY DENY A REGISTRATION TO AN APPLICANT,
9 REPRIMAND A REGISTRANT, OR SUSPEND OR REVOKE A REGISTRATION, IF AN
10 APPLICANT OR REGISTRANT, OR AN AGENT, EMPLOYEE, OFFICER, DIRECTOR, OR
11 PARTNER OF THE APPLICANT OR REGISTRANT:

12 (1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO
13 OBTAIN A REGISTRATION;

14 (2) FRAUDULENTLY OR DECEPTIVELY USES A REGISTRATION;

15 (3) FAILS TO PROVIDE OR MISREPRESENTS ANY INFORMATION
16 REQUIRED TO BE PROVIDED UNDER THIS SUBTITLE;

17 (4) VIOLATES THIS SUBTITLE;

18 (5) VIOLATES THE CODE OF ETHICS ADOPTED BY THE SECRETARY;

19 (6) VIOLATES A REGULATION ADOPTED UNDER THIS SUBTITLE;

20 (7) FAILS TO PROVIDE REASONABLE AND ADEQUATE SUPERVISION OF
21 THE PROVISION OF CHILD SUPPORT COLLECTION SERVICES BY AGENTS,
22 EMPLOYEES, OFFICERS, DIRECTORS, OR PARTNERS OF THE REGISTRANT'S BUSINESS;

23 (8) REFUSES TO ALLOW AN INSPECTION REQUIRED BY THIS SUBTITLE;

24 (9) FAILS TO COMPLY WITH AN ORDER OF THE EXECUTIVE DIRECTOR;

25 (10) FAILS TO COMPLY WITH ANY TERMS OF SETTLEMENT UNDER A
26 BINDING ARBITRATION AGREEMENT; OR

27 (11) IS FOUND GUILTY BY A COURT IN THIS STATE OF VIOLATING AN
28 UNFAIR AND DECEPTIVE TRADE PRACTICES PROVISION UNDER TITLE 13 OF THE
29 COMMERCIAL LAW ARTICLE.

30 (B) (1) IF A REGISTRANT IS CHARGED WITH A VIOLATION OF THIS SUBTITLE
31 THAT COULD RESULT IN SUSPENSION OR REVOCATION OF THE REGISTRATION, THE
32 EXECUTIVE DIRECTOR MAY SEEK AN IMMEDIATE RESTRAINING ORDER IN A CIRCUIT
33 COURT IN THIS STATE TO PROHIBIT THE REGISTRANT FROM PROVIDING CHILD
34 SUPPORT COLLECTION SERVICES IN THE STATE.

35 (2) THE RESTRAINING ORDER IS IN EFFECT UNTIL:

1 (I) THE COURT LIFTS THE ORDER; OR

2 (II) THE CHARGES ARE ADJUDICATED OR DISMISSED.

3 (C) INSTEAD OF OR IN ADDITION TO SUSPENDING OR REVOKING A
4 REGISTRATION, THE EXECUTIVE DIRECTOR MAY IMPOSE A CIVIL PENALTY:

5 (1) NOT TO EXCEED \$5,000 FOR EACH VIOLATION OF THIS SUBTITLE OR
6 AN ORDER OF THE EXECUTIVE DIRECTOR UNDER THIS SUBTITLE; AND

7 (2) NOT TO EXCEED \$500 FOR EACH DAY A VIOLATION CONTINUES PAST
8 THE TIME SET FOR ITS CORRECTION.

9 (D) TO DETERMINE THE AMOUNT OF THE PENALTY IMPOSED UNDER
10 SUBSECTION (C) OF THIS SECTION, THE EXECUTIVE DIRECTOR SHALL CONSIDER:

11 (1) THE SERIOUSNESS OF THE VIOLATION;

12 (2) THE HARM CAUSED BY THE VIOLATION;

13 (3) THE GOOD FAITH EFFORTS OF THE REGISTRANT; AND

14 (4) ANY HISTORY OF PREVIOUS VIOLATIONS BY THE REGISTRANT.

15 (E) ANY CIVIL PENALTIES COLLECTED UNDER THIS SECTION SHALL BE PAID
16 INTO THE GENERAL FUND OF THE STATE.

17 10-412.

18 (A) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE EXECUTIVE
19 DIRECTOR SHALL COMMENCE PROCEEDINGS ON A COMPLAINT MADE BY ANY
20 PERSON TO THE EXECUTIVE DIRECTOR.

21 (B) A COMPLAINT SHALL:

22 (1) BE IN WRITING;

23 (2) STATE SPECIFICALLY THE FACTS ON WHICH THE COMPLAINT IS
24 BASED; AND

25 (3) BE MADE UNDER OATH BY THE PERSON WHO SUBMITS THE
26 COMPLAINT.

27 (C) THE EXECUTIVE DIRECTOR SHALL REVIEW EACH COMPLAINT AND SHALL
28 ATTEMPT TO NEGOTIATE A SETTLEMENT OF THE COMPLAINT BETWEEN THE
29 COMPLAINANT AND THE REGISTRANT.

30 (D) IF THE EXECUTIVE DIRECTOR IS UNABLE TO NEGOTIATE A SETTLEMENT
31 OF THE COMPLAINT, THE EXECUTIVE DIRECTOR MAY:

1 (1) AT THE REQUEST OF EITHER PARTY, REFER THE COMPLAINT TO THE
2 OFFICE OF THE ATTORNEY GENERAL OR THE OFFICE OF ADMINISTRATIVE
3 HEARINGS FOR BINDING ARBITRATION, IF BOTH PARTIES AGREE TO BINDING
4 ARBITRATION;

5 (2) INITIATE AN INVESTIGATION; OR

6 (3) DISMISS THE COMPLAINT.

7 (E) IF, AFTER INVESTIGATION, THE EXECUTIVE DIRECTOR DETERMINES THAT
8 THERE IS A REASONABLE BASIS TO BELIEVE THAT THERE ARE GROUNDS FOR
9 DISCIPLINARY ACTION UNDER § 10-411 OF THIS SUBTITLE, THE EXECUTIVE
10 DIRECTOR SHALL PROVIDE THE PERSON AGAINST WHOM THE ACTION IS
11 CONTEMPLATED NOTICE AND AN OPPORTUNITY FOR A HEARING UNDER § 10-413 OF
12 THIS SUBTITLE.

13 (F) (1) IF, AFTER INVESTIGATION, THE EXECUTIVE DIRECTOR DETERMINES
14 THAT THERE IS NOT A REASONABLE BASIS TO BELIEVE THAT THERE ARE GROUNDS
15 FOR DISCIPLINARY ACTION, THE EXECUTIVE DIRECTOR SHALL DISMISS THE
16 COMPLAINT.

17 (2) ANY PARTY AGGRIEVED BY THE DISMISSAL MAY SEEK JUDICIAL
18 REVIEW IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT
19 ARTICLE.

20 (G) ONCE A COMPLAINT HAS BEEN REFERRED FOR BINDING ARBITRATION,
21 THE REGISTRANT SHALL COMPLY WITH THE TERMS OF THE SETTLEMENT.

22 10-413.

23 (A) (1) EXCEPT AS OTHERWISE PROVIDED IN § 10-226 OF THE STATE
24 GOVERNMENT ARTICLE, BEFORE THE EXECUTIVE DIRECTOR TAKES A FINAL ACTION
25 UNDER THIS SUBTITLE, THE EXECUTIVE DIRECTOR SHALL PROVIDE THE PERSON
26 AGAINST WHOM THE ACTION IS CONTEMPLATED NOTICE OF THE EXECUTIVE
27 DIRECTOR'S PROPOSED ACTION AND THE OPPORTUNITY TO REQUEST A HEARING
28 BEFORE THE EXECUTIVE DIRECTOR.

29 (2) A PERSON SHALL FILE A REQUEST FOR A HEARING NOT LATER THAN
30 30 DAYS AFTER THE DATE THE NOTICE PROVIDED UNDER PARAGRAPH (1) OF THIS
31 SUBSECTION IS MAILED.

32 (B) THE EXECUTIVE DIRECTOR SHALL PROVIDE NOTICE AND CONDUCT THE
33 HEARING IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT
34 ARTICLE.

35 (C) THE HEARING NOTICE PROVIDED TO THE PERSON UNDER SUBSECTION
36 (A)(1) OF THIS SECTION SHALL BE SENT BY CERTIFIED MAIL TO THE LAST KNOWN
37 ADDRESS OF THE PERSON AT LEAST 10 DAYS BEFORE THE HEARING.

1 (D) IF A HEARING IS NOT REQUESTED WITHIN THE TIME PERIOD SPECIFIED
2 UNDER SUBSECTION (A)(2) OF THIS SECTION OR IF THE PERSON FAILS TO APPEAR
3 FOR THE HEARING AFTER REQUESTING A HEARING, THE PROPOSED ACTION OF THE
4 EXECUTIVE DIRECTOR SHALL BE AFFIRMED.

5 (E) THE PERSON MAY BE REPRESENTED AT THE HEARING BY COUNSEL.

6 10-414.

7 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PERSON
8 WHO PROVIDES CHILD SUPPORT COLLECTION SERVICES MAY NOT COLLECT ANY
9 FEES FROM A CHILD SUPPORT OBLIGEE IN THIS STATE.

10 (B) A PERSON WHO PROVIDES CHILD SUPPORT COLLECTION SERVICES MAY:

11 (1) CHARGE AN INITIAL APPLICATION FEE OF NOT MORE THAN \$25; AND

12 (2) CHARGE A COMMISSION OF NOT MORE THAN 10 PERCENT OF ANY
13 AMOUNT OF CURRENT OR PAST DUE CHILD SUPPORT COLLECTED.

14 10-415.

15 A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A
16 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$5,000
17 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

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